



Bureau of Ocean Energy
Management

Gulf of Mexico Wind Lease Sale (GOMW-1)

Final Sale Notice (FSN)

Response to Comments

June 2023

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1. **Introduction**

The Bureau of Ocean Energy Management's (BOEM) mission calls for expeditious and orderly development of the mineral and energy resources of the OCS, while also safeguarding the environment and its existing uses.

On February 24, 2023, BOEM published the Proposed Sale Notice for Commercial Leasing for Wind Power Development on the Outer Continental Shelf in the Gulf of Mexico (PSN) for the Gulf of Mexico wind auction (GOMW-1). The PSN public comment period closed on April 25, 2023. BOEM received a total of 331 public comment submissions. Of that total, 64 were identified as unique; none were part of a form letter campaign. The comments were received from a variety of governments and stakeholders and represent a wide range of views and perspectives, which were very informative to BOEM's decision-making process. Taking these mandates and comments into account, BOEM revised the lease terms, conditions and stipulations, auction format and procedures, and other documents related to the GOMW-1 Final Sale Notice (FSN). BOEM appreciates the time and energy put into the comment development and has afforded careful consideration of all comments received. Given the volume and density of the comments, BOEM has provided a summary of the comments received and associated responses.

2. **General Comments on the PSN**

Summary of Comments:

Many commenters provided general feedback in response to the PSN request for comment. Approximately 30 commenters expressed some degree of support for offshore wind (OSW) development. Renewable energy companies, union representatives, and individual commenters requested a quick and efficient approval process for potential projects, citing the potential for carbon reduction, new jobs, and support for the local economy. Several commenters stated that OSW must be developed in a reasonable and responsible way to protect ocean resources. By contrast, other commenters expressed general opposition to OSW.

BOEM Response:

BOEM appreciates the public's participation in our process and the fact that individual stakeholders took the time to express their opinions regarding decisions about OSW development. BOEM recognizes the important role that OSW can play in the effort to decrease greenhouse gas emission and understands the need for efficient yet thorough vetting of these projects. Wind energy leases that may be awarded as a result of this sale grant to the lessees only the exclusive right to submit plans for BOEM's approval. In accordance with BOEM's renewable energy regulations, the submission (and BOEM's potential subsequent approval) of a Construction and Operations Plan (COP), which is a detailed plan for construction and operation of a wind energy facility on a lease, allows the lessee to construct and operate wind turbine generators and associated facilities for a

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specified term. If a COP is submitted, BOEM will prepare a National Environmental Policy Act (NEPA) analysis on that site-specific plan. This analysis would most likely take the form of an environmental impact statement (EIS) and would further analyze cumulative impacts pursuant to NEPA.

3. Number, Size, Orientation, and Location of the Proposed Lease Areas

Summary of Comments:

BOEM solicited comments in the PSN regarding the number, size, orientation, and location of the proposed lease areas and transit corridors. BOEM received numerous comments in response to this topic, and for the purposes of response development, we have broken them down into the following categories:

- *Number of Lease Areas Offered*
- *Delineation of Lease Areas Offered*

3.1 Number of Lease Areas Offered

Summary of Comments:

BOEM solicited comments regarding the number, size, orientation, and location of the three Proposed Lease Areas detailed in the PSN. BOEM received approximately 14 comments in response to this topic. All these commenters expressed support for the number, size, and location of the three Proposed Lease Areas. In addition, BOEM received approximately 5 comments requesting an increase in the number and acreage of leases offered in this sale.

BOEM Response:

The number, size, orientation, and location of the lease areas offered in the FSN are the same as the Proposed Lease Areas described in the PSN. BOEM weighed numerous variables in deciding to offer for lease three areas totaling 301,746 acres, as described in the Wind Energy Area (WEA) modeling report entitled, “A Wind Energy Area Siting Analysis for the Gulf of Mexico Call Area” which can be found at <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/GOM-WEA-Modeling-Report-Combined.pdf>. BOEM will not offer more than three lease areas in the GOMW-1 auction. Additional acreage will not be added to the lease areas described in the PSN.

3.2 Delineation of Lease Areas

Summary of Comments:

BOEM received three comments concerning the delineation of Proposed Lease Areas. One

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commenter was concerned with the potential impacts of the development of the Proposed Lease Areas on commercial and recreational shrimping. Specifically, the Southern Shrimp Alliance (SSA) requested that BOEM remove specific blocks from the lease areas. SSA also recommended that BOEM consider applying a 1nm-2nm setback on lease area boundaries that are in the closest proximity to areas with high shrimp fishing activity.

Two other commenters expressed concern that wind energy leasing in traditional lightering areas could restrict where and how vessels carry out their cargo transfer operations, potentially impacting access to ports, safety of navigation, and the facilitation of commerce.

BOEM Response:

BOEM worked closely with the SSA when siting the WEAs to avoid impacts to the GOM commercial shrimp industry to the greatest extent practicable. In support of this effort, BOEM noted areas on the GOM OCS that have moderate to high levels of commercial shrimping activity (i.e., areas trawled more than 4.5 days per year from 2015 through 2019) as constrained areas in the spatial suitability model that BOEM used to site the GOM WEAs, and this resulted in avoidance of a substantial amount of the areas highly used by commercial shrimpers (See Figure 3.34 in the [GOM WEA Modeling Report](#)). As part of the suitability modeling process, BOEM used a cluster analysis to identify highly suitable, contiguous lease blocks that included enough acreage to support economically viable OSW projects (See Section 2.7 of the [GOM WEA Modeling Report](#)), and this methodology resulted in some constraints remaining within final WEA options. Accordingly, BOEM will not be adjusting the lease areas.

Regarding the requested 1-2 nm setback from lease area boundaries in closest proximity to high shrimp fishing activity, BOEM has decided not to apply a setback at this time to allow lessees enough flexibility to account for technical and economic feasibility constraints when preparing a COP. BOEM can consider this request as well as other comments received from the SSA when considering the approval of a submitted COP after lease issuance.

Due to U.S. Coast Guard's (USCG) concerns about lightering areas in the southern portion of the Galveston WEA (Option I), BOEM will continue to work with USCG to identify, quantify, and mitigate potential impacts and risks to lightering operations within the traditional lightering use areas within Galveston leases when considering any plans submitted for BOEM's consideration and approval after lease issuance. Therefore, BOEM determined that eliminating additional areas at this time would be premature.

4. Transit Corridors

Summary of Comments:

BOEM received four comments on transit corridors. One commenter requested that BOEM, in consultation with USCG and the National Oceanic and Atmospheric Administration (NOAA) determine whether transit corridors are warranted for both fishing and operational and

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safety reasons. Another commenter stated that within the lease areas, transit corridors should be considered holistically considering both current and future lease areas within the GOM as well as ongoing studies by cooperating agencies such as USCG's Port Access Route Study (. Transit lanes should be placed to minimize infringement on the buildable area of the lease area but still ensure adequate use. Another commenter was concerned that additional vessel transit measures could result in the loss of developable area and, therefore, capacity of the project. Adding burdensome requirements that provide for vessel transit areas, or limits to surface occupancy, could have the effect of eroding the value of a project by reducing its size and precluding it from taking advantage of economies of scale that could otherwise make the project viable. Another commenter was concerned that the wind farm area off Calcasieu Pass is located between two Gulf of Mexico safety fairways and would impact the anchoring of deep draft vessels using those fairways, since there are no designated anchorage areas off Calcasieu Pass.

BOEM Response:

Members of the fishing community have requested that OSW 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. However, at the COP stage, BOEM may nonetheless consider designating portions of the Lease Areas as areas of no surface occupancy to facilitate vessel transit and continuity of existing uses.

USCG announced on March 10, 2023, that it is conducting a Port Access Route Study (PARS) to evaluate the adequacy of existing vessel routing measures and determine whether additional vessel routing measures are necessary for port approaches to Galveston Bay and Sabine Pass, Texas; Calcasieu Pass, Louisiana; and international and domestic transit areas in the Eighth Coast Guard District area of responsibility (AOR). BOEM is coordinating closely with the USCG to address potential maritime impacts from any future OSW development in the lease areas, including lessees' development of a Navigation Safety Risk Assessment (NSRA) to satisfy the COP information requirements of 30 CFR 585.627(a)(8). BOEM defers to the USCG's authority and expertise regarding vessel transit and navigation safety and is not prescribing vessel routing measures at the leasing stage.

BOEM has not included buffers, setbacks, or areas of no surface occupancy in the final lease areas or lease stipulations to maintain the size of the lease areas offered and to preserve flexibility for lessees to design appropriate layouts at the COP stage. The COP stage is the point at which survey and site assessment data are available to inform the design, coordination between neighboring lessees and among stakeholders has been undertaken, and NSRAs have been developed.

At the COP stage, BOEM may consider designating portions of the lease areas as areas of no surface occupancy to facilitate vessel transit and continuity of existing uses. Potential future restrictions to ensure navigational safety are described in the FSN (Section VII.(a)). The lease stipulations requiring engagement and an Agency Communications Plan (ACP), Fisheries Communications Plan (FCP), and Native American Tribes Communications Plan (NATCP) will facilitate the lessees' design and implementation of projects that minimize, mitigate, and/or redress the projects' adverse effects.

5. Benefits to Underserved Communities

Summary of Comments:

Approximately 12 commenters provided feedback on lease stipulations that would benefit underserved communities. Commenters generally supported BOEM's goal to benefit underserved communities through lease stipulations and credits.

One commenter stated that BOEM must apply to the Gulf shrimp fishery President Biden's policies regarding Equity and Environmental Justice as set forth in his various Executive Orders.

One commenter supported the use of lease stipulations to ensure benefits through workforce contracting with, and supporting the development of, minority- and women-owned businesses, and programs that ensure environmental justice. The commenter suggested BOEM should advance equity by stipulating that lessees include marginalized groups in the planning process.

Another commenter felt that for OSW projects to benefit underserved communities, the projects must drive high-road labor standards that ensure the creation of good local jobs along with meaningful engagement and collaboration with communities.

Multiple commenters stated that BOEM must stipulate that all development occur in a manner that avoids, minimizes, mitigates, and/or redresses the project's potential adverse effects, if any, on State Recognized Tribes and environmental justice communities. BOEM should also stipulate that lessees adopt the goal for 40 percent of all project benefits to flow to disadvantaged communities, and for lessees to submit a Justice40 Implementation Plan, and provide regular progress updates towards that plan to align with the Justice40 Initiative established in Executive Order 14008.

Another commenter stated that Native American tribes receive access to loan guarantees, loan creation fees, and direct loans and that non-Native Americans are constitutionally entitled to similar programs.

BOEM Response:

As part of the environmental analysis that BOEM performed for the issuance of commercial and/or research wind energy leases, BOEM determined that site assessment and site characterization activities would have a negligible effect on environmental justice populations. BOEM will continue to conduct environmental justice analyses at the appropriate stages. Additionally, BOEM is offering a bidding credit to bidders that commit to contributing to a fisheries compensatory mitigation fund as described in the FSN.

BOEM's leasing program is not a Justice40 covered program and BOEM cannot stipulate

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that lessees adhere to the Justice40 initiative.

BOEM does not provide loans to Native American or Tribal organizations. The Department of Energy administers a Tribal Energy Loan Guarantee Program. However, this program is outside of BOEM's jurisdiction and, thus, cannot be incorporated into this leasing program. That said, BOEM continues to look for ways to improve Tribal engagement and build capacity in Tribal organizations. This includes regional quarterly meetings, invitations to Tribes to join the Gulf of Mexico Intergovernmental Renewable Energy Task Force, the development of an interagency Tribal engagement series on OSW and contracting with Tribally owned businesses through the Buy Indian Act.

6. Bidding Credits

BOEM specifically solicited comments on the proposed bidding credits. BOEM received 23 comments on bidding credits and for the purposes of response development, they have been broken down into sub-categories in this section.

Summary of Comments:

While most commenters were in support of bidding credits, there were differing opinions on how many bidding credits should be allowed, the value of the bidding credits, and how the bidding credits should be used.

BOEM Response:

BOEM considered all comments and decided to offer two bidding credits in this sale for a total of 30 percent of the cash component of a bid. These two credits support development of an OSW workforce and/or supply chain and provide a fisheries compensatory mitigation fund to mitigate OSW impacts on regional fisheries.

The workforce training/supply chain credit is valued at 20 percent of the cash component of a bid, while the fisheries credit is equal to 10 percent of a bid's cash component. BOEM derived these percentages by balancing BOEM's obligation to obtain a fair return and with the obligation to comply with other Outer Continental Shelf Lands Act (OCSLA) mandates.

BOEM included "workforce diversity, training, and development, including within underserved communities and Tribes" and "ensuring equal access to contracting opportunities, including to disadvantaged businesses and wholly owned Tribal businesses" in the required supply chain Statement of Goals in each lease. BOEM identified disadvantaged businesses among the potential beneficiaries for supply chain development.

BOEM is not offering a bidding credit for entering into a Community Benefit Agreement, but is offering, as proposed in the PSN, a bidding credit for a committing to contribute to a fisheries compensatory mitigation fund. OCSLA requires BOEM to ensure that all BOEM-authorized

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activities are carried out in a manner that provides for the prevention of interference with reasonable uses and to consider other uses of the sea, including use for a fishery. While BOEM has worked to deconflict proposed lease areas and fishing areas to minimize future impacts, there are still potential fishing impacts.

6.1 Bidding Credit for Workforce Training and/or Supply Chain Development

Summary of Comments:

Many commenters expressed general support for bidding credits for workforce training and supply chain development, including OSW industry groups, advocacy groups, and local/state governments.

An advocacy group recommended that BOEM offer two distinct bidding credits: one dedicated to workforce development training and the other to building a domestic supply chain.

An OSW industry group noted that supporting workforce training programs is important because there is an employment disparity between U.S. mariners and lower-wage foreign crews.

An OSW workforce advocacy group urged BOEM to “utilize bidding credits to build the offshore wind industry in the Gulf of Mexico as a high-road industry.”

An advocacy group offered several considerations for BOEM in terms of workforce training and supply chain development credits. These included coordinating with Federal agencies to focus on domestic development, ensuring fair return to the United States, an effective deployment timeline, and strengthening national security through secure supply chains. Another advocacy group also stated that investments in a strong domestic supply chain would help “protect the national security interest,” which is a BOEM responsibility.

BOEM Response:

BOEM included a lease stipulation requiring lessees to “make every reasonable effort to enter a Project Labor Agreement(s) (PLA) that covers the construction stage of any project proposed for the leased area.” If used, the PLAs would require contractors working on the construction stage of a project to adhere to collectively bargained terms and conditions of employment, whether the contractors are union or non-union. PLAs typically include prevailing wages provisions, no-strike clauses, dispute resolution procedures, and safety and training provisions.

BOEM also included a lease stipulation requiring lessees to submit a Statement of Goals that must include the lessee’s plans for investments in domestic supply chain improvements, if any, to support the OSW industry. The supply chain Statement of Goals is required regardless of whether the lessee received the Workforce Training and/or Supply Chain Development bidding credit.

The workforce training/supply chain development bidding credit is designed to enhance the OSW workforce and/or stand-up the domestic supply chain for OSW manufacturing, assembly, or

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services. BOEM decided to set the bidding credit at 20 percent of the cash component of the bid to provide meaningful capital, and grant bidders the flexibility to contribute funds to either workforce training or supply chain development, depending on market needs. BOEM did not separate the workforce training and supply chain into a separate credit. Lessees should have maximum flexibility to contribute funds to the greatest need. BOEM lacks the authority to direct lessees to invest in, or hire, specific parties.

BOEM designed the PLA, supply chain Statement of Goals, and workforce training/supply chain bidding credit stipulations to work together. A PLA is likely to contain provisions designed to establish and maintain a well-trained OSW workforce. The supply chain Statement of Goals targets the need for lessees to engage with domestic suppliers and invest in supply chain improvements to support the industry.

The OSW industry is one element of the Nation's diverse energy sector. This sector is critical to the national security interests of the United States, powering transportation, communications, finance, and government infrastructure. Pursuant to OCSLA, OSW leasing must be carried out in a manner that provides for protection of the national security interests of the U.S. A more robust domestic supply chain reduces the risks of disruption, delay, and increased expense that come with reliance on foreign suppliers.

6.1.1. Is the proposed 20% bidding credit the optimal percentage to support workforce training and supply chain development?

Summary of Comments:

Support for 20% credit

Several commenters expressed support for the proposed 20% bidding credit for Workforce and Supply Chain Development and did not recommend that it be increased.

Recommendations to increase credit

An industry group expressed general support for increasing the bidding credit because a Contribution of only 20 % [of the cash bid] from the “three leases currently outlined in the PSN will be insufficient on its own to improve the domestic workforce or supply chain in the Gulf region.” Another industry commenter encouraged BOEM to increase the credit to “to accelerate the expeditious growth of the national supply chain and state and national offshore wind goals.”

Recommendations to decrease credit

Some commenters asked for a reduction of the bidding credit. Specifically, one commenter recommended that it be reduced because “developers may make commitments in offtake agreements, which typically support the development of the local supply chain and develop a local workforce. This type of spending advances the federal goals of investment, avoids

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unnecessary duplication, and leverages local expertise, all while creating a federal backstop if such spending does not otherwise occur.”

BOEM Response:

BOEM retained the PSN proposal for a bidding credit of 20 percent of the cash component of the bid in exchange for financial commitments to an OSW workforce training program and/or to the development of an OSW domestic supply chain. When deciding to maintain the credit value of 20 percent of the cash component, BOEM exercised its discretion and technical expertise to balance commenters’ input, market needs, and fair return from the Lease Areas. BOEM determined that 20 percent of the cash component should be sufficient to incentivize potential lessees to invest in creating a domestic supply chain or training a domestic OSW workforce.

BOEM concurs that the three leases being offered in GOMW-1 will be insufficient alone to support a GOM OSW, but that is not the purpose of the credit. The credit is designed to support the growth of a domestic OSW industry and the market will determine which OSW components are best suited for manufacture or assembly in the GOM region.

The 20 percent credit is unlikely to oversaturate the market for workforce training or developing a domestic supply chain. Given the great need for a domestic OSW workforce and domestic supply chain, as well as the expense and time required to develop them, BOEM finds that setting the bidding credit for OSW workforce training or supply chain development at 20 percent of the monetary component is a reasonable incentive to facilitate and encourage expeditious and orderly OSW development.

BOEM has traditionally limited non-monetary factors to no more than 25 percent of the bid price but also considers market and stakeholder needs. For this GOMW-1 lease sale, the workforce training/supply chain and Fisheries Compensatory Mitigation Fund bidding credits total 23.1 percent of the bid price (30 percent of the cash bid). While the OSW supply chain and workforce training needs will almost certainly exceed the available Contributions from this sale, BOEM must balance these needs with its mission priorities. In the case of the supply chain and workforce chain bidding credit, BOEM is balancing a fair return to the public with other mission goals such as encouraging expeditious and orderly development. BOEM finds that this is a reasonable balance with the public’s return from leasing along with the achievement of other OCSLA goals.

6.1.2 Should the sale offer a bidding credit for a bidder who proposes to make a financial commitment by entering into a long-term contract for components needed to build or maintain its project that will also benefit the offshore wind industry as a whole, such as the construction of new manufacturing capacity or investment in expanding or re-tooling existing capacity?

Summary of Comments:

Some commenters expressed general support for providing credits to bidders that enter long-term

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contracts for components related to building the OSW industry. These included industry and advocacy groups. One of the industry groups expressed support for the bidding credit to include lessees entering into long-term contracts for OSW components.

Another industry group was not in favor and stated that BOEM should not consider the sourcing of raw materials or components as qualifying for bidding credits, as lessees “will be in the best position to determine the most effective investments later in the process and should have the flexibility to respond to local, national, and global supply chain considerations.”

BOEM Response:

There are limited actions BOEM can undertake to facilitate long-term contracts for OSW components. Bidding credits would not be an efficient mechanism to incentivize long-term contracts. BOEM authorizes OSW development, but demand for OSW energy is driven by state clean energy policies or other clean energy incentives. Long-term OSW component contracts are only possible if both the supply of offshore acreage and the demand for OSW electricity exist.

BOEM reiterates that bidding credits are designed to incentivize training and domestic supply chain development by providing non-equity capital. BOEM avoided prescriptive solutions for specific recipients or components for bidding credit Contributions. BOEM does not believe the design of the bidding credit provision inhibits the flexibility lessees need to respond to domestic and global supply chain considerations.

6.1.3 What other activities should qualify for this bidding credit to best develop a sustained and robust US offshore wind energy supply chain?

Summary of Comments:

An advocacy group said the credits should be increased to support environmental research and the health of the local economy. Bidding credits should be expanded beyond investments in supply chain and workforce development.

A State agency requested that BOEM “consider the inclusion of coastal restoration as an additional bidding credit.”

Some commenters encouraged the implementation of bidding credits focused on commitments that involve benefits to underserved and environmental justice (EJ) communities.

Some advocacy groups suggested that BOEM add a bidding credit for a consolidated research hub that could support “research into infrastructure design, analysis of monitoring data, data sharing and transparency agreements, and research to support adaptive management (e.g., research into improving monitoring, avoidance, and mitigation measures)”.

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An industry group suggested that BOEM move forward with “exploring additional bidding credits or incentives that promote the adoption of innovative technologies, environmental stewardship, and community engagement.”

BOEM Response:

BOEM traditionally limited non-monetary factors to no more than 25 percent of the asking price.¹ Larger discounts may threaten the competitive nature of the auction. Operating within this 25 percent constraint, BOEM prioritized bidding credits consistent with OCSLA purposes, including requiring that BOEM obtain “fair return” for its OSW leases. Limiting the bidding credits to 25 percent of the asking price is also consistent with Congress’ intent to direct wind energy leasing revenues to the General Fund pursuant to section 9 of OCSLA (43 U.S.C. § 1338), while simultaneously allowing BOEM to use monetary bidding incentives to further OCSLA goals.

BOEM received comments that were supportive of the bidding credit but did not receive substantive comments on changes to the proposed workforce training or supply chain bidding credit. Additional suggested bidding credits received in comments included coastal restoration, Justice40 carveouts, OSW research and environmental research. Credits for these purposes are either inconsistent with BOEM’s authority under OCSLA or BOEM has determined they would not be an efficient use of the bidding credit incentives.

Environmental research is funded through BOEM and NOAA appropriations or other federal agencies and is also undertaken by lessees. BOEM does not see a compelling need for additional research funding using bidding credits. The diminishing marginal returns for incremental research conducted with bidding credit funds is unlikely to be the best value for bidding credit incentives.

Coastal restoration must be related to direct impacts of OSW that will be identified during the COP stage with site-specific plan review and subsequent NEPA processes. OSW developers are responsible for mitigating these potential impacts. Using bidding credits to address impacts that are not a direct result of OSW activities would be inconsistent with BOEM’s authority.

BOEM encouraged lessees to consider disadvantaged businesses and/or Tribal corporations, but BOEM cannot require lessees to target funding to certain businesses. BOEM cannot use bidding credits to incentivize programs in environmental justice or other underserved communities that are not directly impacted by OSW activities.

6.2 Bidding Credit(s) for Fisheries Compensatory Mitigation Fund

BOEM solicited comments in the PSN regarding general questions relevant to fisheries and associated bidding credits. The questions were relevant to the proposed Fisheries Compensatory Mitigation Fund bidding credit as described in the PSN.

¹ Note that BOEM implements the bidding credit as a percentage of the cash bid, which has been expressed as a credit of up to 30% of the monetary bid, which is 23.1% of the asking price.

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Summary of Comments:

Industry and advocacy groups generally supported a bidding credit that is intended to benefit fishermen, fishing businesses, and fishing-dependent communities.

An advocacy group referred to a NOAA tech memo entitled, “Fisheries and Offshore Wind Interactions: Synthesis of Science.” They recommended that “BOEM incorporate the economic impacts mentioned therein.”

A government entity was concerned that 10% fisheries bidding credit is not large enough to cover the full revenue exposure of commercial and recreational fisheries as determined through the assessment of impacts during BOEM’s approval process for COPs.

A commenter questioned BOEM’s authority to offer bidding credits and pointed out that “BOEM has repeatedly indicated it has no statutory authority to require compensatory mitigation.”

An advocacy group estimated that \$75.7 million could be deposited into the Fisheries Compensatory Mitigation Fund (\$757.1 was the total amount from the recent California lease sale). The comment noted that “given the lease term identified in Addendum “B” is 39 years in duration, that seems wholly inadequate.”

BOEM Response:

For this lease sale, BOEM will offer a bidding credit for a Contribution to a Fisheries Compensatory Mitigation Fund. BOEM is not requiring compensatory mitigation but using its authorities to incentivize and encourage voluntary compensatory mitigation for fisheries impacts. In the comments, there was overwhelming support for the use of bidding credits to help mitigate potential fishing or shrimping impacts from OSW development. BOEM provided the purpose, requirements, restrictions, and enforcement in the lease for the bidding credit Contribution and offered as much flexibility as it deems feasible.

BOEM reviewed the NOAA technical memorandum, which is entitled, “Fisheries and Offshore Wind Interactions: Synthesis of Science.” The memorandum, in Chapter 2.2 Fisheries Economic Impacts, provides a synthesis of potential and possible economic impacts to fisheries by OSW development. The memorandum also acknowledges there are local and regional differences and stakeholder engagement on the economic impacts to fisheries is critical. The bidding credit for the Fisheries Compensatory Mitigation Fund recognizes these differences and is encouraging a regional GOM fund that will provide equitable compensatory mitigation for GOM fisheries impacts caused by OSW development.

BOEM encourages the use of a regional fund. A regional fund will pool resources and provide administrative efficiency. Lessees can support all impacted groups through one fund and key stakeholders, including lessees and fishers, would be included in a uniform governance structure.

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BOEM expects a regional fund would be a vehicle that is most likely to adjudicate all claims equitably without disparate treatment of varied fishing interests or claims against different lessees. BOEM will continue to evaluate the potential funding needs for compensating fishing impacts from OSW activities and can adjust bidding credits for a fisheries' compensatory mitigation fund in future GOM lease sales.

BOEM determined that roughly half the total value allocated to the domestic supply chain and work force development bidding credit is an appropriate amount to incentivize developers to contribute to a Fisheries Compensatory Mitigation Fund.

6.2.1. Should BOEM restrict or expand the eligible compensation criteria?

Summary of Comments:

An industry group generally supported the Fisheries Compensatory Mitigation Fund, although they expressed concern that the fund is intended to prioritize gear loss and income loss, as the fund “could be used for other purposes such as gear upgrades and support for coastal communities.” They prefer that funds “be used for whatever measure(s) are most useful to Gulf fishers at the time the fund is implemented.”

An advocacy group requested that the eligible compensation criteria for the Fisheries Compensatory Mitigation Fund be expanded beyond that which is stated in the PSN as compensation to commercial fishermen for “gear loss or damage,” and for “lost fishing income in GOM lease areas.”

An industry group suggested BOEM allow greater flexibility for the Fisheries Fund usage to maximize the opportunity for this credit to meet local needs.

Multiple commenters wrote about impacts to the fishing industry and urged BOEM to not be too prescriptive when finalizing the bidding credit because prioritizing one type of impact, such as gear loss, could deter impact mitigation of other types of impacts, such as support for coastal communities.

Commenters listed impacts to the fishing industry, including lost fishing grounds, gear, productivity, and shoreside infrastructure. One of them recommended that compensation plans “allow greater flexibility for fund usage as to maximize the opportunity for this credit to meet local needs.”

BOEM Response:

In its bidding credit decisions, BOEM considered all comments regarding potential impacts that may be felt by local communities.

The Fund must cover the impacts of each stage of OSW development and must provide compensation for lost or damaged fishing gear as well as lost income resulting from impacts on

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OSW projects that are built on OCS wind energy leases and easements in the GOM. These impacts can occur during preconstruction, construction, operation, and decommissioning. This language is generally unchanged from the PSN. BOEM modified the lease language to also fund other purposes, although this flexibility may not go as far as some commenters requested.

While the Fund's priority is to compensate fishers for gear loss or damage and income loss, funds that have been determined to be in excess of meeting that need, based on an actuarial accounting, may be used to:

- Promote participation of fishers and fishing communities in the OSW project development process or other programs that better enable fishing and OSW industries to coexist.
- Offset the cost of gear and navigational aid upgrades and other transitions for operating within a wind farm.

The allowed funding for engagement or participation activities and gear or navigational upgrades is intended to provide greater flexibility to fund administrators. While income and gear loss are still the fund's priority, if there are excess funds, other fishing needs directly related to GOM OSW impacts may be addressed.

6.2.2. General Questions on Fisheries Compensatory Mitigation Fund

Summary of Comments:

An advocacy group applauded BOEM's efforts to incentivize the creation of Fisheries Compensatory Mitigation Funds and pointed out that similar efforts are being undertaken on the East Coast through the creation of a Regional Fund Administrator. The group recommended that BOEM consider which elements from that effort could be applicable to the GOM.

An industry group stated that it "believes it is premature for BOEM to outline fiduciary governance structures, fund management provisions, investment limitations, internal controls, or prescriptive caps." They stated that the Draft Fisheries Mitigation Guidance provides a framework and can serve as industry standard guidance.

BOEM Response:

BOEM retained the actuarial, fiduciary framework as proposed in the PSN and is not imposing investment limitations or caps on administrative expenses. The reporting and actuarial requirements are included to ensure transparency and accountability for management of the fund. BOEM's draft Fisheries Mitigation Guidance only generally addresses the fiduciary aspects of managing a fisheries fund by encouraging a fund be managed by a neutral third-party. Other guidance (related to fund management) focuses on how fishing losses will be valued, mitigation periods, claims process and eligible recipients. Since BOEM will not retain oversight of the Fund incentivized by this bidding credit, the bureau is requiring minimum fiduciary provisions. BOEM believes the fund management provisions provide the necessary fiduciary governance controls and

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the flexibility needed to assure the fund is well managed for the benefit of all stakeholders. The fiduciary controls include:

- The Fund must be independently managed by a third party and must include trustees or board members from fishing stakeholder groups.
- The Fund must include fiduciary governance and strong internal controls and must minimize administrative expenses.
- The Fund governance must include a process for evaluating the actuarial status of funds every five years, and for publicly reporting information on Fund disbursements and administrative costs at least annually.

6.2.3. What information should the Fisheries Compensatory Mitigation Fund be required to publish for the public to evaluate whether the fund is meeting its objective and whether the funds are being appropriately used?

Summary of Comments:

An advocacy group recommended that the Fisheries Compensatory Mitigation Fund be designed to be enforceable, with regular reporting structures to help BOEM enforce and monitor commitments, and that there should be “sustained identification and quantification of each direct, indirect, and cumulative economic impact on commercial fisheries.”

An industry group agreed with the proposed timelines and noted that establishing and contributing to the fund before the first facility design report will “provide sufficient time to stand up a fund while ensuring it is in place before construction begins so that it is available for use.”

BOEM Response:

BOEM does not retain ongoing oversight of the fund once it is established. Instead, BOEM determines whether the lease provisions governing the bidding credit Contribution are met. BOEM has required (among other provisions) that the Fund governance include a process for evaluating the actuarial status of funds every five years, and for publicly reporting information on Fund disbursements and administrative costs at least annually. This external reporting should provide the public and stakeholders sufficient information to evaluate the health and governance of the Fund.

6.2.4. Should qualifying mitigation funds be segregated to cover specific leases or should funds be pooled as proposed to cover fisheries impacts derived from future offshore wind leasing and projects in the Gulf of Mexico?

Summary of Comments:

An industry group recommended that BOEM “ensure that the proceeds from each bidding credit are pooled into a fund that covers the entire Gulf region.” They reason that this measure would

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“allow a regional fund to create administrative efficiencies that relieve burdens from federal and state regulators, lessees, and fishermen; and would make it easier to incorporate bidding credits from future Gulf lease sales.”

BOEM Response:

Lessees are encouraged to contribute to a regional fund that would compensate fisheries losses resulting from all OCS wind energy leases and easements in the GOM. BOEM continues to recommend a GOM regional fund due to the administrative efficiencies and greater likelihood of equitable treatment for fisheries stakeholders. Lessees could still opt to establish separate Funds.

7. **Project Labor Agreements**

Summary of Comments:

BOEM received 262 comments on PLAs. There were 248 statements of support for BOEM’s potential stipulation encouraging PLAs for construction activities. One commenter recommended a requirement that workers employed in the construction, operations and maintenance of OSW projects be paid no less than the prevailing wage rate applicable to the classification in the state where the power is being delivered. Commenters also cited numerous benefits of PLAs, including ensuring a skilled workforce, schedule certainty, training programs, improved safety, and application of prevailing wages and benefits to workers. Commenters also noted that PLAs would be consistent with existing laws and recent executive orders. However, 14 commenters expressed concerns about a PLA stipulation, because a highly effective supply chain supporting offshore energy development and production in the Gulf of Mexico already exists. These commenters fear that the proposed PLA requirement will only disrupt the effective deployment of the existing energy supply chain.

BOEM Response:

BOEM added a lease stipulation requiring lessees to make every reasonable effort to enter into a PLA covering the construction stage of any project proposed for the leased area. PLA conditions typically include prevailing wages, no-strike clauses, dispute resolution procedures, and safety and training provisions. If used, the PLAs would require contractors working on a project to adhere to collectively bargained terms and conditions of employment, whether the contractors are union or nonunion. BOEM’s stipulation complements state initiatives for a trained OSW workforce, promotes the standardization of training and safety protocols and will contribute to the timely construction of OSW projects.

8. **Native American Tribes, Ocean Users, and Other Stakeholder Engagement and Coordination**

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Summary of Comments:

Five commenters provided feedback on engagement with Native American Tribes, ocean users and other stakeholders particularly as this relates to the loss of tribal homelands. They recommended that BOEM stipulate that the loss of Tribal homelands (for state and federally recognized tribes) be avoided, minimized, and mitigated for all offshore wind energy development and, to the extent possible, ensure Tribes will receive assistance in protecting and restoring their homelands in areas impacted by offshore wind energy development and requested BOEM to stipulate that all development occur in a manner that avoids, minimizes, mitigates, and/or redresses the project's potential adverse effects, if any, on State Recognized Tribes.

BOEM Response:

As required by NEPA and the National Historic Preservation Act (NHPA), as well as Executive Order 13175, BOEM has coordinated and consulted with Native American Tribes throughout the process and both federally- and state-recognized Tribes had the opportunity to provide feedback on potential impacts to their respective interests, including loss of their homelands. The intent of these statutory and Executive Order provisions is to ensure that Tribes have an opportunity to provide feedback on the current actions and allow BOEM to avoid, minimize, and/or mitigate impacts to Tribal interests as appropriate. Specifically, as part of the NHPA process, BOEM sent letters to Tribes that have homelands and/or expressed interest in the Gulf of Mexico region as well as State Historic Preservation Offices, and no historic properties were identified that would be affected by this lease sale. BOEM will continue to review plans and other actions as leases are developed to ensure properties of interest to Native American Tribes are considered and addressed as appropriate. BOEM also sent letters to multiple regional Tribes inviting their feedback on the proposed lease sale and offering government-to-government consultation meetings to discuss any concerns. These Tribes were also invited to join the Gulf of Mexico Wind Task Force to discuss wind development in the Gulf of Mexico, including any concerns they may have. As part of the NEPA process, BOEM solicited comments from the public and considered impacts to a wide range of communities, including Tribes, and the impacts were determined to be beneficial or minimally adverse. As plans and other actions are developed on the leases, further NEPA analysis will be performed, and Tribes and other communities will have the opportunity to provide additional feedback and comment.

9. Coordinated Engagement

Summary of Comments:

Six commenters provided feedback on coordinated engagement. Four commenters were in favor of coordinated engagement with key stakeholders. One commenter recommended that engagement meetings occur on an annual basis and in an in-person setting. Another commenter would like there to be lease stipulations requiring lessees to develop communication plans and progress reports for affected underserved communities, and they recommended that engagement efforts not be limited to the environmental review timeline,

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but rather long-term engagement throughout the life of the project. One commenter expressed appreciation for the importance of engagement but doesn't agree with proposed lease stipulations for coordinated engagement.

BOEM Response:

BOEM appreciates the feedback about coordinated engagement, progress reports, and communication plans. As these requirements are implemented on existing leases issued with this provision, BOEM will consider public comments, such as these in determining the best approach for future lease sales.

These requirements establish our expectations for engagement and require that lessees be transparent without being overly prescriptive. For example, requiring annual, in-person meetings with all Tribes and stakeholder groups may not be feasible. Indeed, such a requirement may not reflect the preferences of the groups whom this provision is intended to benefit.

10. Prescribed Layouts

Summary of Comments:

BOEM solicited comments in the PSN regarding potential uniform and aligned turbine layouts in the lease areas. Commenters expressed both support and opposition to uniform and aligned turbine layouts. BOEM received several comments supporting the use of uniform turbine spacing and layouts to facilitate navigational safety for fishing and maritime communities. The USCG recommended lessees adopt the same spacing and layout across project borders to present a single wind farm with consistent straight-line routes for transiting vessels. In the absence of common spacing and layout, the Coast Guard recommended a setback from the shared border to create a space between projects that is noticeably greater than any turbine spacing within either wind farm. Many commenters opposed the use of uniform and aligned turbine layouts, stating it would be premature at the leasing stage without first evaluating the environmental conditions of the lease area. Most OSW developer comments were opposed to uniform and aligned turbine layouts due to potential constraints for siting flexibility and the complexities that influence layout decisions.

BOEM Response:

The three lease areas being offered are already sufficiently separated so there is no need for additional setbacks between them. BOEM has not prescribed uniform layouts within the GOMW-1 leases in order to preserve flexibility for lessees to design appropriate layouts at the COP phase, which is when survey and site assessment data are available to inform the design. Prescribing layouts at the lease sale stage would be premature.

11. Limits on the Number of Lease Areas Per Bidder

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Summary of Comments:

Fifteen commenters provided feedback on the limits on the number of lease areas per bidder. The majority of commenters, comprised of representatives from the wind industry, the State of Louisiana, and non-governmental organizations, preferred a limit of one lease area per bidder regardless of the number of areas offered for sale. The commentors in favor of limiting the number of lease areas were interested in maximizing competition in future wind energy procurement, as well as prohibiting consolidation of the OSW market. One of the cited justifications was that preventing consolidation would translate to lower costs for ratepayers. One commenter suggested that limiting the number of lessees could improve coordination across areas.

One OSW developer argued for the removal of the one per customer limits, stating that it would provide significant benefits to BOEM and ratepayers.

BOEM Response:

BOEM concurs with the conclusions presented by Louisiana and most commenters, that there are benefits to the development of offshore resources on the OCS from increased competition and diversification of the offshore wind industry. Consistent with commenters, BOEM concluded that increased competition is likely to lead to a more diverse pool of lessees and potential developers in the United States, expanding opportunities for innovation in this sector, and insulating this nascent industry against unforeseen risks and challenges.

Moreover, the marginal benefit to a lessee of developing two leases is unlikely to outweigh the benefits from greater competition for state offshore wind energy offtake agreements.

While a one lease per bidder restriction could potentially lead to a decrease in the overall bonus bids received, BOEM agrees that increased competition for state wind energy procurements offers greater potential benefits to state procurement processes and state ratepayers than the economies of scale that could be obtained by a lessee procuring two leases. These projects are likely to be multi-billion-dollar investments, a figure which affords considerable opportunities for economies of scale on a project-by-project basis, i.e., without lessees winning multiple leases. Therefore, BOEM is limiting the number of lease areas any bidder can win to one.

BOEM will only allow single entities to bid in this auction. Parties wishing to act as co-lessees can form a joint venture and qualify as a single entity. BOEM agrees that there is strong interest in coordination across areas, and accordingly has introduced requirements for enhanced coordination, as discussed in Section VI(a) of the FSN and required in the lease.

12. Auction Format

Summary of Comments:

Fourteen commenters provided feedback on the auction format and BOEM's potential use of bidding credits in a multiple-factor auction. Most commenters were in favor of a single auction, with the exception three commenters, including the State of Louisiana, who requested a simultaneous auction for the two areas. Several developers and developers' associations appeared to favor a single-factor, price-only ascending bid auction but did not supply any explanation for that preference, foreclosing any meaningful response from BOEM. One commenter did not agree with the 40% capacity factor used to calculate the annual operating fees.

BOEM Response:

BOEM has elected to use a multiple-factor auction format, with a multiple-factor bidding system. Multiple-factor auction formats allow BOEM to balance fair return on leased acreage while incentivizing initiatives that will aid in the expeditious and orderly development of the Outer Continental Shelf or other priorities under BOEM's statutory requirements. Under this format, BOEM would consider a combination of a monetary (cash) bid and non-monetary factor (bidding credit) in determining the outcome of the auction. BOEM has selected a multiple-factor auction format to incentivize workforce training and domestic supply chain development, as well as the use of a Fisheries Compensatory Mitigation Fund.

BOEM has reduced the initial capacity factor to 30 percent for the GOM leases. This lower capacity factor more closely approximates average GOM wind resources.

13. Definition of Affiliated Entities

Summary of Comments:

BOEM received four comments regarding the definition of affiliated entities. One commenter stated that BOEM should retain its current definition of "affiliated" in the Gulf of Mexico FSN, rather than expand the definition. The other commenters requested more clarification on the definition of affiliated entities, especially clarification and specification of affiliates, and, specifically, the prohibition on affiliates bidding against each other. One commenter would like additional guidance regarding what constitutes an affiliate.

BOEM Response:

BOEM has determined that there are benefits to the development of offshore resources in the OCS from increased competition and diversification of the OSW industry. Increased competition is likely to lead to a more diverse pool of lessees and potential developers in

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the United States, expanding opportunities for innovation in this sector, and insulating this nascent industry against unforeseen risks and challenges. As such, BOEM employs a ‘one per customer’ auction rule where bidders can bid for at most one of the offered leases at the same time. Consequently, BOEM prohibits affiliated entities from bidding against one another.

No substantive changes have been made to the definition of affiliated entities between the PSN and the FSN. However, BOEM has revised the definition of “affiliated entities” for GOMW-1 compared with the definition used in previous lease sales in other OCS areas, most recently Pacific Wind Lease Sale 1 (PACW-1). An affiliate means a bidding entity who controls, is controlled by or is under common control with another bidding entity. The definition of affiliated entities in the FSN, Section II.a., allows BOEM to consider bidding entities affiliated depending upon the amount of shared ownership or the amount of control one bidding entity has over another, which is similar to the provisions of PACW-1. In the FSN for GOMW-1, BOEM has added another factor by which BOEM may determine two bidding entities are affiliated. BOEM may consider two bidding entities affiliated if they have “entered into an agreement prior to the auction regarding the shared ownership, operation, or day-to-day management of” any lease offered in this auction. This additional factor is intended to prevent bidders from forming an agreement before the auction to bid separately and then cross-assigning interests or otherwise co-developing a lease after the sale has been completed and one of them has acquired the lease.

14. Other Comments

14.1 Marine Mammals

Summary of Comments:

BOEM received several comments regarding impacts on marine mammals, including the Rice’s Whale. One commenter was concerned with the major gaps in knowledge regarding implementation of commercial offshore wind farms and their effect on the marine environment. Another commenter was concerned with the potential future conflicts with the Rice’s whale’s critical habitat in the GOM. A few commenters suggested that BOEM limit the speed of all vessels to reduce the risk of vessel collisions. Several commenters noted the importance of using Protected Species Observers (PSOs) and/or acoustic detection to monitor zones and manage the timing of site assessment and characterization activities to minimize all impacts. One commenter suggested that BOEM develop and implement management practices to monitor for and minimize the risk to marine species most susceptible to entanglement, including marine mammals, sea turtles, sharks and diving birds.

BOEM Response:

BOEM included several stipulations in the FSN that address minimizing impacts to protected species from site characterization and site assessment activities. Information gaps are identified

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through early environmental analyses, coordination, public comment, and consultation so that research can be conducted in a timely manner. Through our commitment to using the best-available science, BOEM incorporates available research into our analyses. BOEM also works closely with our other federal partners through consultations. However, BOEM does not comment on MMPA authorizations and the National Marine Fisheries Service's (NMFS) analysis.

BOEM conducted Essential Fish Habitat and Endangered Species Act consultations with NMFS and the FWS. Through these consultations, BOEM developed protocols to reduce and/or eliminate impacts of potential site characterization and site assessment activities, including vessel traffic, noise, entanglement, and vessel strike. Through inclusion of lease stipulations in the FSN, these protocols are made applicable to any wind leases within the geographic areas covered by our consultations.

If, and when, a plan is submitted to BOEM for the actual construction, operation, and decommissioning of a wind farm, BOEM will conduct environmental analyses and consultations in accordance with applicable statutes to examine potential impacts, including those from vessel traffic and noise.

14.2 **Birds**

Summary of Comments:

BOEM received six comments regarding impacts on birds, including bird migration and collisions. One commenter was concerned about the impact of windfarms on migrating, pelagic, and shore-residing bird populations that are known to be active in the GOM. A few commenters suggested that BOEM require lessees to adopt measures to monitor, avoid, and minimize bird and bat collisions. There was significant concern for collision impacts during turbine operation as well as during site assessment and site characterization activities.

BOEM Response:

During the wind energy siting process, BOEM considered potential impacts on birds from wind energy development. A 20 nm coastal buffer was included as a constraint in the spatial suitability model used to site the GOM WEAs, which distanced potential, future wind facility development from coastal nesting, foraging, and migration activities. As determined through BOEM's environmental analyses and consultations, no adverse impacts to birds or bats are expected from site characterization and site assessment activities. As such, no mitigation or monitoring measures have been identified for this stage of OSW development in the GOM.

Before BOEM will approve the siting of a facility, structure, or cable(s) proposed for a renewable energy project on the Outer Continental Shelf (OCS), the lessee must submit with its COP the results of its site characterization surveys and supporting data to BOEM. This includes surveys and/or supporting data regarding bird and bats.

BOEM will use the data from these surveys to evaluate the potential impacts of construction,

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installation, and operation of an OSW facility on biological resources, including seabirds. The information will be used by BOEM, other Federal agencies, and potentially affected states in the preparation of NEPA documents, for consultations, and for other regulatory requirements. The lessee may include some mitigative and monitoring measures for bird and bat resources in its COP. Through consultation with the FWS and other State and Federal partners during the environmental review of a COP, BOEM may identify additional, site-specific monitoring and mitigative measures to reduce or eliminate potential effects to birds and bats. BOEM is also conducting environmental studies on habitat use of seabirds in the Gulf of Mexico in relation to potential OSW development. The results of these studies will also inform the COP-stage consultations and mitigation development.

14.3 Fisheries Data Usage

Summary of Comments:

Several commenters discussed methods used to collect and analyze fisheries data. One commenter recommended that BOEM avoid artificial reefs by a 1nm buffer. Another commenter was concerned with the six fishery-independent surveys overlapping the lease areas.

BOEM Response:

BOEM relies upon the best available science in evaluating leasing options. This approach has not limited BOEM to any single dataset in understanding past and current fisheries usage. BOEM has used information provided by NMFS, including fishing vessel trip reports, vessel monitoring systems, and NMFS' revenue exposure calculations. The proposed lease areas within the Galveston WEA are both located over 1 nm from the nearest artificial reef sites. No artificial reefs are located within 1 nm of the Lake Charles WEA.

The overlap between the lease areas and NMFS's fishery-independent surveys is relatively small as BOEM made efforts to reduce the spatial overlap with these survey efforts. BOEM understands that some standard surveys may have to be adjusted if development should occur within the WEAs. BOEM will continue to coordinate with NMFS to discuss environmental information and data-collection concerns, as well as discuss potential survey mitigation strategies.