



United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT

New Orleans Office

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Decision Memorandum

To: Elizabeth Klein
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From: Doug Boren
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Subject: Oregon Final Sale Notice

1. Purpose

This memorandum documents the analysis and rationale that the Bureau of Ocean Energy Management (BOEM) used to develop recommendations for the Lease Areas to be included in the Final Sale Notice (FSN) for the Oregon offshore wind renewable energy lease sale on the Outer Continental Shelf (OCS), also known as Pacific Wind Lease Sale 2. This memorandum also documents BOEM's decisions to exercise its authority under the Outer Continental Shelf Lands Act (OCSLA) to include certain stipulations in the leases that will be offered for sale offshore Oregon. This memorandum requests your concurrence with proceeding with the publication of the FSN and lease auction procedures set out below.

2. Decision Summary

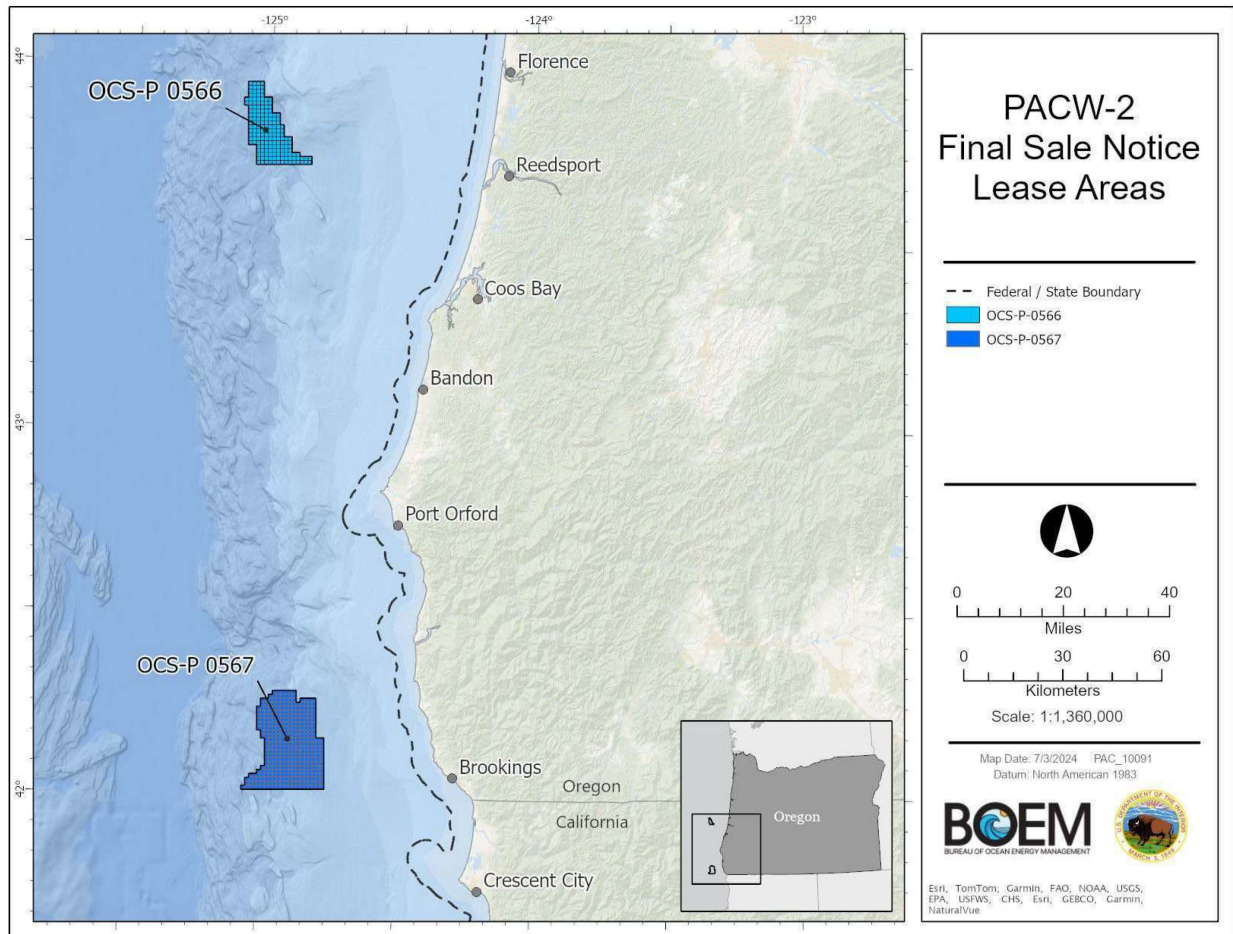
As described in Table 1 and depicted in Figure 1, the recommended Lease Areas for the Oregon FSN consist of 194,995 total acres. The size of the Lease Areas has not changed from the size of the areas proposed in the Proposed Sale Notice (PSN). The leases to be awarded, by themselves, do not authorize any activities on the OCS. The leases grant the lessees the exclusive right to submit a Construction and Operations Plan (COP) that, if approved after completing all necessary reviews and consultations under applicable Federal statutes, would allow offshore wind energy activities on the Lease Areas. The leases to be awarded would have an operations period of 35 years. Some noteworthy stipulations included in the leases concern reporting requirements; communications plans with Tribes, agencies, and fisheries; a supply chain statement of goals; and mitigation measures for foreign interest, protected species, and benthic habitat.

Table 1: Oregon Lease Area Descriptive Statistics

Lease Area	Acres	Installation Capacity (MW) ^[1]	Minimum Depth (meters)	Maximum Depth (meters)	Closest distance to shore (statute miles)
Brookings OCS-P 0567	133,792	2,166 MW	567 m	1,531 m	18 miles
Coos Bay OCS-P 0566	61,203	991 MW	635 m	1,414 m	32 miles
Total	194,995	3,157 MW	-	-	-

[1] Capacity estimated using National Renewable Energy Laboratory’s 4 megawatts per square kilometer (0.01618745 MW/acre) (low estimate) and the Coastal Virginia Offshore Wind Commercial Project, lease OCS A-0483, approved facility of 2,587 MW within 112,799 acres (0.02293460 MW/acre) (high estimate).

Figure 1: Map of the Final Lease Areas in Pacific Wind Lease Sale 2



3. Legal Background

Pursuant to OCSLA subsection 8(p)(1)(C), the Secretary of the Interior (Secretary), in consultation with the U.S. Coast Guard (USCG) and other relevant Federal agencies, may grant a lease, easement, or right-of-way on the OCS for activities that produce or support production of energy from sources other than oil and gas (43 U.S.C. § 1337(p)(1)(C)). The Secretary must ensure that activities under this subsection are carried out in a manner that provides for 12 goals, including safety, protection of the environment, and consideration of other uses of the sea or seabed (43 U.S.C. § 1337(p)(4)(A)–(L)). To the extent that there may be conflict or tension among them, BOEM must reach a rational balance with none inherently outweighing or supplanting any others (30 CFR 585.102(a)). BOEM, on behalf of the Secretary, issued updated regulations governing the leasing process and management of offshore renewable energy projects. *See* 89 Fed. Reg. 42,602 (May 15, 2024).

This memorandum addresses BOEM’s consideration of the goals listed in OCSLA subsection 8(p)(4), particularly environmental factors and multiple uses, at the FSN stage of the leasing process (43 U.S.C. § 1337(p)(4)(A), (B), (D), (F), (I), and (J)), as explained further below in Section 4 of this memorandum. Lease issuance is not the last stage at which BOEM will consider the goals under § 1337(p)(4). Issuance of a renewable energy lease, which does not authorize any activities on the lease, but authorizes only the submittal of plans for BOEM’s approval, does not constitute an irretrievable and irreversible commitment of resources. BOEM will conduct further analysis under OCSLA and the National Environmental Policy Act (NEPA), as well as other Federal statutes, if and when COPs are submitted.

4. Description of the BOEM Competitive Lease Award Process

4.1 Call for Information and Nominations to Area Identification

On April 29, 2022, BOEM published the Call for Information and Nominations – Commercial Leasing for Wind Energy Development on the Outer Continental Shelf Offshore Oregon. The Call Area was comprised of two areas located on the U.S. OCS offshore Oregon. The Call areas for potential wind energy leasing consisted of approximately 1,159,298 acres. After the close of the Call comment period on June 28, 2022, BOEM initiated the Area Identification (Area ID) process by reviewing the input received on the Call. On August 15, 2023, BOEM announced that it was seeking public comments on two draft Oregon Wind Energy Areas (WEAs).

BOEM finalized the Area ID process after reviewing the input received from stakeholders and Tribal Nations. BOEM announced the final WEAs on February 14, 2024, by designating two WEAs within the Call Areas. The first WEA (Brookings) is 133,792 acres and located approximately 18 miles from shore. The second WEA (Coos Bay) is 61,203 acres and located approximately 32 miles offshore Oregon. The two final WEAs comprise 194,995 acres and could support approximately 3.1 GW of energy production if fully developed. The Oregon Area ID process and documentation can be found at <https://www.boem.gov/oregon>.

4.2 Proposed Sale Notice

On May 1, 2024, BOEM published a PSN for the Oregon lease sale. The PSN provided detailed information about the two areas that could be available for leasing, possible lease provisions and conditions, auction details (e.g., criteria for evaluating competing bids and award procedures),

and lease execution. The PSN included the Brookings Lease Area, OCS-P 0567, which consists of 133,792 acres located approximately 18 miles from shore; and the Coos Bay Lease Area, OCS-P 0566, which consists of 61,203 acres located approximately 32 miles from shore.

The PSN for Oregon identified specific topics and questions necessary to inform BOEM's decisions on multiple aspects of the lease sale. A summary of all comments received on the PSN is in the Response to Comments document available at: <http://www.boem.gov/oregon>. Full versions of the comments are available at: <https://www.regulations.gov/document/BOEM-2024-0022-0001/comment>.

4.3 Final Sale Notice

The FSN is the last step, before the sale itself, in the competitive lease award process. See 30 CFR 585.210(b)(4). The FSN contains information pertaining to the areas available for commercial wind energy leasing on the OCS in Oregon. Specifically, the FSN includes details regarding certain provisions and conditions of the leases, auction details, the lease form, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution. BOEM will offer two leases: Lease OCS-P 0566 and Lease OCS-P 0567. These two Lease Areas have a potential installation capacity of approximately 3.1 GW of offshore wind energy, which could power over one million homes and potentially support thousands of new jobs. The issuance of any lease resulting from this sale 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. See Figure 1 for a map of the final Lease Areas.

5. Rationale for Size and Location of FSN Lease Areas

On February 14, 2024, BOEM published a notice of intent to prepare an environmental assessment (EA) to consider potential environmental consequences of site characterization activities (e.g., biological, archaeological, geological, and geophysical surveys and core samples) and site assessment activities (e.g., installation of meteorological buoys) that are expected to take place after issuance of wind energy leases in the Call Area. As part of the scoping process for the EA, BOEM sought comments on the issues and alternatives that should inform the EA. BOEM received 242 comments, which can be found at <http://www.regulations.gov> under Docket No. BOEM-2023-0065. In addition to the preparation of the Draft EA, BOEM has completed consultations under the Endangered Species Act (ESA), the Magnuson-Stevens Fishery Conservation and Management Act, and the Coastal Zone Management Act (CZMA). On May 1, 2024, BOEM published a Notice of Availability for the Draft EA, opening a 30-day comment period that was later extended an additional two weeks, for a total 44-day public comment period. During this time, two virtual public meetings were held, one on May 23, 2024, and another on June 5, 2024. The final EA and Finding of No Significant Impact was published in August 2024, and can be found at <https://www.boem.gov/renewable-energy/state-activities/oregon>. BOEM will conduct additional environmental reviews upon receipt of a lessee's COP, if any leases issued from this sale reach that stage of development.

Throughout the leasing process, BOEM has continued to winnow down the suitable area for offshore wind development from the beginning stages of the Call through the publication of the FSN. Through extensive engagement and BOEM's partnership with the National Oceanic and Atmospheric Administration's (NOAA) National Centers for Coastal Ocean Science on spatial modeling, BOEM determined that the Lease Areas defined in the PSN did not need to be adjusted and they are considered final in the FSN.

The Lease Areas in the FSN represent a balance of existing and future uses with the need for expeditious and orderly development of renewable energy. BOEM designated the two Lease Areas while taking into consideration conflicting uses of these OCS areas and stakeholder concerns.

BOEM received 281 comments on the PSN. Comments included recommendations to change reporting requirements and add additional time for lessees to submit communication plans, and support for project labor agreements. Public comments also included concerns related to potential impacts and/or conflicts with archaeological resources, vessel transit, high-frequency radar, and NOAA scientific surveys. To address these concerns related to potential impacts and/or conflicts, BOEM included language in the FSN regarding potential conflicts with future development that may require mitigation as a condition of project approval.

After careful consideration of comments, BOEM decided to offer the Brookings and Coos Bay Lease Areas in this Oregon lease sale without modification from the areas described in the PSN. BOEM has maintained the size of the lease areas to preserve flexibility for lessees to design appropriate layouts at the COP stage to accommodate the protection of sensitive seafloor habitat within the lease area, particular in the Brookings Lease Area. Through the Area ID process, BOEM avoided a significant amount of ocean area that supports important habitat and fishing operations. While some fishing activity and habitat could not be entirely avoided, site-specific data collected by future lessees will inform a lessee's design of its proposed facility and BOEM's

review of the COP, which may result in further avoidance and minimization of potential impacts. The COP stage is the point at which survey and site assessment data would be available to inform the project design, allow for coordination between neighboring lessees and stakeholders, and develop navigational safety risk assessments.

6. Lease Stipulations

BOEM has included a series of lease stipulations in the leases offered in this sale to mitigate existing use conflicts and enhance the development process for all parties involved. Please see the discussion below for a summary of lease stipulations that will be included in all leases issued as a result of this sale.

6.1 Reporting Requirements

Lessee engagement must allow for early and active information sharing focused on discussion of potential issues and collaborative identification of solutions. The lessee will make reasonable efforts to engage with Tribes and other parties that may be potentially affected by the project activities on the OCS, which include, but are not limited to, the following:

- Commercial and recreational fishing industries
- Educational and research institutions
- Environmental and public interest non-governmental organizations
- Federal, state, and local agencies
- Mariners and the maritime industry
- Ocean users
- Submarine cable operators
- Underserved communities, as defined in Section 2 of Executive Order 13985

Within progress reports, lessees will be required to: identify Tribes and parties that may be affected by a lessee's activities on the OCS and with whom the lessees have entered into a communications agreement; provide updates on engagement activities; document potential adverse effects to the interests of Tribes and parties; document how, if at all, a project has been informed or altered to address those potential effects; document feedback from engagement regarding transmission planning prior to proposing any export cable route; provide information that can be made available to the public; and include strategies to reach potentially affected individuals with limited English proficiency.

Acknowledging that there is an existing and growing consultation burden placed on many affected Tribes and parties, the stipulation also requires, to the maximum extent practicable, that lessees coordinate with one another on engagement activities. The engagement stipulation requires lessees to engage in ways that minimize linguistic, technological, cultural, capacity, or other obstacles. The stipulation encourages lessees to work collaboratively with governments, community leadership and organizations, and Tribes and to develop specific frameworks for capacity building.

In addition, the stipulation requires that progress reports also address lease requirements for the development of communications plans with:

- Tribes (Native American Tribes Communications Plan),

- Federal, state and local agencies (Agency Communications Plan), and
- Fisheries (Fisheries Communications Plan).

Experience in other regions has shown that 120 days after lease execution is not sufficient time to draft comprehensive communication plans. For the Oregon lease sale, BOEM is extending the 120-day requirement used in previous leases to a 180-day requirement to allow sufficient time for lessees to engage with entities to develop communication plans. These plans serve to guide engagement activities with those groups, and the progress reports must also include updates on activities executed under the lessee's survey plan(s). In addition, BOEM uses lease stipulations concerning progress reports with Tribal Nations and parties to explicitly seek input and discussion surrounding transmission easements prior to proposing such easements.

Implementation of this stipulation will increase communication and accountability between or among the lessees, Tribes, BOEM, and other stakeholders.

6.2 Supply Chain Statement of Goals

BOEM is committed to establishing a durable domestic supply chain that can sustain the U.S. floating offshore wind industry and support safe, expeditious, and orderly development on the OCS. To advance this vision, BOEM has included a stipulation that requires the lessee to establish a statement of goals in which the lessee will describe its plans for contributing to the creation of a robust and resilient U.S.-based floating offshore wind supply chain. The lessee must provide regular progress updates to BOEM on the achievement of those goals, and BOEM will make these updates publicly available.

6.3 Project Labor Agreements

BOEM has included a stipulation that requires the Lessee 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, and that applies to all contractors. Offshore wind projects are large, complex construction efforts that are well suited for PLAs. PLAs generally 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 contractors. PLA clauses typically include prevailing wage provisions, no-strike clauses, dispute resolution procedures, and safety and training provisions.

BOEM has concluded that the use of PLAs when developing the leases at issue will potentially help achieve several of OCSLA's goals. Pursuant to 43 U.S.C. § 1332(6), operations on the OCS should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent occurrences that may cause damage to the environment or to property or endanger life or health. One way to promote the expansion of a workforce of well-trained personnel that is ready to construct offshore wind projects is through PLAs. OCSLA § 8(p)(4)(A) requires OCS activities to be carried out in a manner that provides for safety. The use of a PLA can help achieve this goal as well.

6.4 Protected Species and Benthic Habitat

BOEM has completed consultation with the National Marine Fisheries Service (NMFS) under section 7 of the ESA. BOEM initiated informal consultation with NMFS on April 18, 2024,

regarding ESA and Essential Fish Habitat consultation for the issuance of leases within the Oregon Wind Energy Areas. These consultations were completed upon receipt of a Letter of Concurrence on BOEM's findings from NMFS on July 12, 2024.

BOEM made a determination of no effect for ESA listed species under the jurisdiction of the U.S. Fish and Wildlife Service.

Further measures that reduce potential impacts to protected species and habitats, and other resources, arose from the CZMA process, which concluded with a conditional concurrence from the State of Oregon on July 17, 2024.

6.5 Research Site Access

This stipulation makes explicit that BOEM, its designated representative, or any entity to which BOEM provides access, retains the right to access the lease area for purposes of future research. This provision does not limit the lessor's authority to access the lease for other purposes.

6.6 Foreign Interest

To protect national defense capabilities and military operations, BOEM is requiring the lessee to provide to the Department of Defense (DoD) specific information about the personnel allowed to access the wind turbine structures and associated data systems. That information includes the names of entities or persons having a direct ownership interest in an offshore wind facility, as well as any changes in ownership interests; the names of the material vendors, entities, and persons with which the lessee will potentially execute contracts to perform construction, supply turbines or other components, or conduct construction and operational activities at the facility; and the names of any foreign entities and persons (as those terms are defined at 31 CFR 800.220 and 800.224) who would have access to the site. In addition, the lessee must coordinate with DoD to enable a risk assessment at least 120 days, or another appropriate timeframe determined acceptable by DoD, after the lease effective date and annually thereafter on the lease effective date. The lessee must resolve DoD's security concerns before it allows access to the site by foreign persons or representatives of foreign entities for which DoD has raised concerns and before the lessee uses wind turbines or other permanent on-site equipment manufactured by such an entity.

6.7 Notice of Assignment to the Committee on Foreign Investment in the United States (CFIUS)

Under BOEM's regulations, a lessee must be one of the following: (1) a citizen or national of the United States; (2) an alien lawfully admitted for permanent residence in the United States, as defined in 8 U.S.C. § 1101(a)(20); (3) a private, public, or municipal corporation organized under the laws of any State of the United States, the District of Columbia, or any territory or insular possession subject to U.S. jurisdiction; (4) an association of such citizens, nationals, resident aliens, or corporations; (5) an Executive Agency of the United States, as defined in 5 U.S.C. 105; (6) a State of the United States; or (7) a political subdivision of States of the United States. At the request of DoD, BOEM is including a stipulation that requires any proposed assignee that is a foreign person (including foreign controlled business entities under the regulations at 31 CFR 800.224) to provide joint notice to CFIUS of a proposed lease assignment, in accordance with applicable regulations at 31 CFR part 800-802, and provide a copy of the

notice to DoD. In addition, approval of any assignment of lease interest to a foreign-controlled business entity would take place only after CFIUS provides notice that it has concluded all necessary reviews under section 721 of the Defense Production Act of 1950, as amended.¹

6.8 National Security Risk Assessment:

BOEM is including a stipulation requiring that the lessee coordinate with, and enable, DoD to conduct a national security risk assessment of proposed distributed optical fiber sensing equipment and acoustic monitoring devices. The lessee will work with DoD to identify information needs and include the information as part of its COP submittal. The risk assessment may be completed prior to submission of the COP, as determined through coordination with DoD. Mitigation measures will be identified as necessary and upon completion of lessor's and DoD's review of the COP.

7. Auction Format

Among BOEM's goals is conveyance of renewable energy leases to those entities most likely to successfully develop the wind resources. BOEM must also comply with the statutory requirement to obtain a fair return on leased acreage. For the Oregon auction, BOEM has elected to use a multiple-factor auction format, defined as "an auction that involves the use of bidding credits to incentivize goals or actions that support public policy objectives or maximize public benefits through the competitive leasing auction process" under 30 CFR 585.113 and 585.216.

Multiple-factor auction formats allow BOEM to balance fair return on leased acreage with incentivizing initiatives that will aid in the expeditious and orderly development of the OCS or other priorities under BOEM's statutory requirements. Under this format, BOEM considers a combination of a monetary factor (cash bid) and a 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, and minimize and mitigate potential impacts to ocean users who use the geographic space and to impacted communities from activities resulting from lease development. BOEM's decision to select these targeted factors is further addressed in Section 8 below, which describes in detail BOEM's decision to offer certain bidding credits.

Allowing the competitive market to determine the value of each individual area will facilitate efficient development of OCS wind resources and award leases to companies that are most likely to develop their lease areas in a timely manner.

8. Bidding Credits

For the Oregon Lease Sale, BOEM is offering three bidding credits. The first bidding credit (15 percent of the bid) is for committing to contributing to workforce training or supply chain development, or both. The second bidding credit (5 percent of the bid) is for a commitment to execute a Lease Area Use community benefit agreement (CBA). The third bidding credit (5 percent of the bid) is for a commitment to execute a general CBA. The actual values of these credits will depend on the winning bids in the auction and whether winning bidders receive one

¹ <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-laws-and-guidance>

or more of the bidding credits. Additional information on the justification for the amount of the bidding credits is included in Section 11. These three bidding credit options have been offered previously in the California Offshore Wind Auction (PACW-1) and no notable changes have been made to the lease stipulations or bidding credit execution.

The workforce training and/or supply chain development bidding credit allows a bidder to receive a credit of 15 percent of its bid in exchange for financial commitments to an offshore wind workforce training program and/or to the development of the floating offshore wind domestic supply chain.

The second bidding credit allows a bidder to receive a credit of 5 percent of its bid in exchange for a commitment to execute a Lease Area Use CBA with one or more communities, stakeholder groups, or Tribal entities whose use of the geographic space of the lease area, or whose use of resources harvested from that geographic space, is expected to be impacted by the lessee's potential offshore wind development.

The third bidding credit allows a bidder to receive a credit of 5 percent of its bid in exchange for a commitment to execute a general CBA with one or more communities, Tribes, or stakeholder groups that are expected to be affected by the potential impacts on the marine, coastal, and/or human environment (such as impacts on visual or cultural resources) from activities resulting from lease development that are not otherwise addressed by the Lease Area Use CBA.

Prior to the auction, bidders will submit to BOEM a Bidder's Financial Form (BFF), in which they will inform BOEM of their decision to commit to the efforts for which the bidding credit(s) can be awarded. Along with their BFFs, bidders must submit to BOEM a conceptual strategy for each bidding credit for which they want to be considered. Conceptual strategies must address how the lessee plans to meet the criteria described in the lease and must describe objective, quantifiable, and verifiable steps that would allow BOEM to confirm compliance with the bidding credit(s) when required documentation is submitted.

Documentation demonstrating payment of the full contribution must be provided to BOEM before the lessee submits the first facility design report (FDR) for the project or other applicable timeline stated in the lease. The documentation must contain and elaborate on the information called for in the conceptual strategy submitted with the BFF to allow BOEM to confirm compliance with the bidding credit criteria provided in sections 9, 10 and 11 of Addendum C of the lease.

9. Lease and Fiscal Terms

BOEM's regulations under the new Modernization Rule are for a default 35-year operations period. Therefore, for the Oregon lease sale, BOEM will follow the new regulations changed under the Modernization Rule and is offering leases with a 35-year operations period.

The operating fees for leases issued under this auction will be calculated using the Mid-Columbia (Mid-C) average price per MW from the S&P Global Market Intelligence Platform.

The initial capacity factor for the Oregon leases is 40 percent. An initial Oregon lease capacity factor of 40 percent is appropriate for this lease sale with the capacity factor being re-evaluated

after the sixth year of commercial operations. Every five years thereafter, a similar re-evaluation process will be conducted.

10. Fair Return and Bidding Credits

In developing the auction design for offshore wind leasing, BOEM contracted with Power Auctions for guidance. The Power Auctions study found that a common practice among Federal agencies is to provide discounts of 25 percent or less of the bid in Federal auctions. While some exceptions to this practice exist, such exceptions are typically reserved for issues of critical importance to the United States (e.g., the DoD providing a larger “discount” in contracting for domestic firms). Power Auctions found that bidding credits work best when they are kept to a ‘modest amount’ to maintain the efficiency of the auction and prevent some bidders from abandoning the auction if they do not have a credit.² Power Auctions highlights the difficulty of determining bidding credit values on page 17 of its study:

It is impossible to determine in an objective manner what these values should be – they can be assessed based on the relative importance of the factors, but this, and the total percentage assigned to bidder discounts is somewhat subjective. Note that the percentage discounts in one lease area may be different than the discounts for another lease area, depending on state-specific issues. Our auction research, design and implementation experience allows us to opine on the effect of bidder discounts on auction efficiency; the exact factors used to determine the bidder discount should be determined by [BOEM] and other industry experts.

OCSLA subsection 8(p)(4)(h) requires BOEM to obtain a “fair return” for its offshore wind leases. “Fair return” is not defined in OCSLA or in BOEM’s renewable energy regulations, and there is no applicable legislative history to provide guidance as to its meaning. BOEM thus has discretion in interpreting this term. For its renewable energy leases, BOEM ensures that the taxpayer receives a fair return for the use of the OCS through a series of required payments, including up-front bonus bids, acreage-based rentals for the predevelopment phase, and a share of revenues in the form of operating fees during project operations. BOEM has discretion in determining “a fair return to the United States for any lease,” and receipt of fair return is one factor that must be balanced when making leasing decisions.

Solicitor’s Opinion M-37067 provides context for the Secretary’s consideration of the subsection 8(p)(4) factors and her discretion on balancing among the factors. In cases where each of the factors cannot be optimized, the Secretary must balance them. The balancing requirement suggests that any reduction in financial return to the taxpayer must arise from the balancing of fair return with the other subsection 8(p)(4) factors. Therefore, bidding credits must help the Secretary implement these other factors.

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 Oregon lease sale, the workforce training/supply chain, Lease Area Use CBA, and general CBA bidding credits would total 25

² Lawrence M. Ausubel & Peter Cramton, 2012. "Multiple Factor Auction Design for Wind Rights," Papers of Peter Cramton 11acmf, University of Maryland, Department of Economics - Peter Cramton, revised 2012. https://www.boem.gov/sites/default/files/uploadedFiles/BOEM/Renewable_Energy_Program/Regulatory_Information/AusubelCramtonPaper2.pdf.

percent of the bid price. Limiting the bidding credits in this sale to 25 percent of the bid price is 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 at the same time allowing BOEM to use monetary bidding incentives to further OCSLA goals, such as the use of well-trained personnel, furthering the expeditious and orderly development of OCS resources, consideration of other uses of the sea or seabed including fisheries, considerations of affected communities, and achieving a fair return. This framework allows the Secretary to balance some of the return from leasing with the achievement of other OCSLA goals, while still retaining significant financial return to the taxpayer.

In sum, the bidding credits offered in this Oregon lease sale are designed to support the development of offshore wind and provide compensatory mitigation to impacted stakeholders. BOEM has determined that the combination of an aggregate bidding credit and the cash bid component provides a fair return to the United States. The fair return to the United States is achieved through both the cash component of the bid (through revenue to the U.S. Treasury), as well as the non-monetary components (through the advancement of domestic offshore wind and other subsection 8(p)(4) factors that benefit the United States).

10.1 Maintaining Competition

As OCSLA states, “the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs” (43 U.S.C. § 1332(3)). The bidding credits proposed in the Oregon lease sale are designed to be accessible and executable by all qualified bidders. The auction is held after all bidders have been informed whether they qualify for bidding credits. From a competitive standpoint, any bidding credit that would apply only to specific bidders could impact the auction's competitiveness. For example, a bidding credit that was designed to give only small businesses credit could result in an inefficient outcome. If non-small businesses are required to pay significantly more than the small business, the lease would either be awarded to the small business, which might not be the most efficient developer of the lease, or the non-small business would be required to pay significantly more for the right to the lease. The design of the Oregon bidding credits maintains competition and affords all bidders a level playing field.

11. Justification for Specific Bidding Credit Percentages

BOEM has determined that a bidding credit of 25 percent of the bid price is reasonable for this Oregon lease sale. Also, as described earlier, BOEM has determined that workforce training and domestic supply chain development are important components of a successful offshore wind industry as they foster expeditious and orderly development, growth of a safe and well-trained work force, and considerations of other uses of the OCS, including use as a fishery.

For this sale, BOEM's Economics Division recommends that workforce development and domestic supply chain would receive a bidding credit of 15 percent of the bid, the Lease Area Use CBA would receive a bidding credit of 5 percent of the bid, and the general CBA would receive a bidding credit of 5 percent of the bid. Explanations for those percentages are provided in the following sections.

11.1 15 Percent Non-Monetary Component Allocated to Workforce Development and Domestic Supply Chain Bidding Credit

Offshore wind energy is a nascent industry with significant promise to contribute to the increasing demand for renewable energy to meet climate goals. Providing incentives in the form of bidding credits to drive investments in supply chain and workforce training is consistent with BOEM's mission of furthering the expeditious and orderly development of offshore wind resources on the OCS. Currently, there is a limited existing supply chain for offshore wind and a limited trained workforce, and establishing them will require significant investment. It is therefore reasonable to allocate 15 percent of the total available bidding credits to these efforts. Moreover, the vast need for a skilled floating offshore wind workforce, along with the need for Jones Act compliant offshore wind vessels and industrial capacity for manufacturing and assembly, signifies the ability of the industry to absorb a large bidding credit. Investments made pursuant to the workforce training/supply chain development bidding credit will facilitate substantial economic development that benefits the United States.

Billions of dollars in investments will be required to stand-up an offshore wind supply chain in the United States, which could ultimately support between 12,300 and 49,000 annual, full-time-equivalent manufacturing and assembly jobs.³ Bidding credit funds, even if the sale exceeds expectations, will provide only a small part of the investment required, but are a helpful contribution toward developing a domestic floating offshore wind supply chain and workforce.

Given the great need for a domestic offshore wind workforce and domestic supply chain, as well as the expense and time required to develop them, BOEM finds that allocating 15 percent of the total available bidding credit to their development is reasonable to encourage expeditious and orderly development.

11.2 5 Percent Non-Monetary Component Allocated to Contributing to a Lease Area Use Community Benefit Agreement Bidding Credit

BOEM also recognizes the potential impacts from offshore wind projects to fishing interests. Potential impacts on the local fishing communities could include the need for gear changes, including the necessity for new navigational aids; changes in income; loss of fishing opportunity; changes in fish behavior, etc. The Lease Area Use CBA may aid fishermen to cope with gear changes and gear loss and damage, as well as loss of income, or other similar impacts that may result from the development of the lease area. Additionally, the Lease Area Use CBA may include payments into a special purpose fund, such as payments to support gear changes, navigation technology improvements, and other efforts to improve safety and navigation, or to compensate the fishing and related industries whose use of the geographic space of the lease area is directly impacted by the Lessee's potential offshore wind energy development.

While BOEM has worked to deconflict lease areas to minimize future impacts to other uses, the Lease Area Use CBA will provide fisheries, including Tribal fisheries, certainty of mitigation. This certainty is provided in advance of an FDR and any offshore wind activity that may interfere with fishing in the project area.

³ Shields, Matt, Ruth Marsh, Jeremy Stefek, Frank Oteri, Ross Gould, Noe Rouxel, Katherine Diaz, et al. 2022. The Demand for a Domestic Offshore Wind Energy Supply Chain. Golden, CO: National Renewable Energy Laboratory (NREL). NREL/TP-5000-81602. <https://www.nrel.gov/docs/fy22osti/81602.pdf>.

11.3 5 Percent Non-Monetary Component Allocated to Contributing to a General Community Benefit Agreement Bidding Credit.

Surveying and development of OCS lease areas may cause impacts to the human, marine, and coastal environments. The general CBA credit is designed to reduce those impacts on local communities before they occur and/or to mitigate those impacts. Lease development will also have potential impacts to harbors and other facilities that will be used during project construction and maintenance. The general CBA bidding credit aims to mitigate potential impacts to communities directly impacted by potential offshore wind development by encouraging direct communication and cooperation between the lessee and affected communities, as well as investments by the lessee. Such cooperation and investments will help ameliorate potential conflict between the lessee and these communities and could also provide the communities with on-the-ground benefits, such as infrastructure improvements, to alleviate impacts from offshore wind projects. The general CBA can facilitate community support by redressing impacts from the lease development, potentially leading to improve social and economic conditions for these communities.

12. Consultations

In addition to the protected species and benthic habitat consultations described in Section 6.4 above, BOEM performed consultations and other activities to comply with the CZMA and the National Historic Preservation Act (NHPA).

BOEM has completed consultation with the appropriate State agencies responsible for coordinating coastal management programs to comply with the federal consistency provisions under 15 CFR part 930 subpart C of the CZMA. On April 30, 2024, BOEM provided a consistency determination (CD) for the Oregon lease sale to the Oregon Department of Land, Conservation and Development. The State of Oregon provided a letter notifying BOEM of their concurrence with conditions in response to the CD on July 17, 2024. BOEM incorporated these conditions in Section 6 of the lease.

Regarding Tribal engagement and consultation, BOEM held a virtual inter-Tribal information sharing meeting on March 18, 2024, to discuss offshore wind for Oregon, Task Force roles and responsibilities, and a review of the PSN and BOEM's leasing process. Over eighty federally recognized west coast Tribes were invited to participate in this meeting, and sixteen Tribes participated in the virtual meeting. On April 29, 2024, a letter was sent from BOEM Director Elizabeth Klein to over eighty west coast Tribal leaders providing a copy of the PSN and the draft EA and inviting formal government-to-government consultation and participation as a cooperating Tribal Nation in the environmental review under NEPA. While several Tribes expressed interest in being a cooperating Tribal Nation, only Elk Valley Rancheria formally agreed to participate as a cooperating Tribal Nation through a memorandum of understanding with BOEM.

Regarding Section 106 of the NHPA (54 U.S.C. § 306108) and its implementing regulations (36 CFR part 800), BOEM initiated Section 106 consultation for the undertaking of issuing a commercial lease and the issuance of ROW/RUE grants within the Oregon WEAs by sending an e-mail, including an electronic copy of the initiation letter, on February 15, 2024, to the Oregon State Historic Preservation Office (SHPO), and the Advisory Council on Historic Preservation

(ACHP). On February 12, 2024, BOEM sent an electronic copy of the invitation letter, with a hardcopy mailed on February 13, 2024, to consult to the following 17 federally recognized Tribes:

- Burns Paiute Tribe
- Confederated Tribes of Coos, Lower Umpqua and Suislaw Indians
- Confederated Tribes of Siletz Indians
- Confederated Tribes of the Grand Ronde Community of Oregon
- Confederate Tribes of the Umatilla Indian Reservation
- Confederated Tribes of the Warm Springs Indian Reservation
- Coquille Indian Tribe
- Cow Creek Band of Umpqua Tribe of Indians
- Elk Valley Rancheria
- Hoh Tribe
- Karuk Tribe
- Klamath Tribe
- Makah Tribe
- Quileute Tribe
- Quinault Indian Nation
- Shoalwater Bay Tribe
- Tolowa Dee-Ni Nation

Karuk Tribe, Tolowa Dee-Ni' Nation, Coquille Indian Tribe, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, and Elk Valley Rancheria responded requesting to be Section 106 consulting parties. Separately through government-to-government consultation, Resighini Rancheria requested to be informed of Oregon offshore wind energy activities, and they have been included in this Section 106 consultation. The remaining 12 federally recognized Tribes did not respond to BOEM's invitation to consult under Section 106; however, BOEM has elected to include these Tribes in the draft Findings document review. ACHP provided a letter dated February 27, 2024, declining the invitation to be a consulting party, unless determined, through consultation, that the undertaking will adversely affect historic properties.

BOEM received requests to become Section 106 consulting parties from a total of eight entities. As mentioned above, BOEM also included the 12 federally recognized Tribes from which no response was received as reviewers of the draft Findings with an additional opportunity to accept the invitation to be a consulting party. BOEM shared this Finding in draft form with the consulting parties including federally recognized Tribes, Oregon SHPO, and Oregon DLCDC on April 30, 2024, for an initial 45-day review. No comments were received from consulting parties, other than the letter from Coquille Indian Tribe on May 10, 2024, requesting changes to the Area of Potential Effect. On June 21, 2024, BOEM shared this Finding in draft form with the federally recognized Tribes, Oregon SHPO, and Oregon DLCDC for a 30-day standard review and comment period. BOEM received concurrence on this Finding from the Oregon SHPO on July 23, 2024. Under 36 CFR 800.4(d)(1)(i), "If the SHPO/THPO [Tribal Historic Preservation Officer], or the Council if it has entered the section 106 process, does not object within 30 days of receipt of an adequately documented finding, the agency official's responsibilities under section 106 are fulfilled."

13. Director Concurrence

<input checked="" type="checkbox"/> Yes	<p>Proceed with the publication of the FSN and lease auction procedures to lease a total area of 194,995 acres offshore the State of Oregon, as described in Table 1 and depicted in Figure 1 of this Decision Memorandum. The two leases to be awarded, by themselves, will not authorize any activities on the OCS, but grant the exclusive right to submit plans (e.g., survey plans and COP) that, if approved after completing all necessary reviews and consultations under applicable Federal statutes, would allow offshore wind energy activities on the Lease Areas. The leases to be awarded will have an operations period of 35 years and will include the stipulations described in this Decision Memorandum and the FSN and included in the draft leases published with the FSN.</p>
<input type="checkbox"/> No	<p>Do not proceed with publication of the FSN and lease auction procedures to lease areas.</p>

ELIZABETH KLEIN
 Digitally signed by ELIZABETH KLEIN
 Date: 2024.08.26 13:12:17 -04'00'

 Elizabeth Klein
 Director, Bureau of Ocean Energy Management

 Date