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**NATIONAL
OCEAN
INDUSTRIES
ASSOCIATION**

Office of Renewable Energy Programs
Bureau of Ocean Energy Management
45600 Woodland Road
VAM-OREP
Sterling, Virginia 20166

Submitted via regulations.gov

1120 G Street, NW
Suite 900
Washington, DC 20005
Tel 202-347-6900
Fax 202-347-8650
www.noia.org

Subject: Request for Feedback on BOEM's Proposed Path Forward for Future Offshore Renewable Energy Leasing on the Atlantic Outer Continental Shelf-Docket No. BOEM-2018-0018

The National Ocean Industries Association (NOIA) represents more than 250 companies engaged in all sectors of the U.S. offshore energy industry, including exploration, production, equipment manufacture and supply, geophysical, catering, transportation, and other diverse offshore support services. Either directly or indirectly, our member companies are all working to explore for and produce energy and hydrocarbon resources from the nation's Outer Continental Shelf (OCS) in an environmentally sensitive and responsible manner. We have strong views focused on energy development from the domestic offshore, including the continued development of offshore renewable energy and the neighboring ports and local infrastructure that help support it.

In responding to the Bureau of Ocean Energy Management (BOEM) request for feedback on the future of renewable energy leasing offshore the United States Atlantic Coast, the focus of our comments will be to address areas where the program has worked, and areas where we suggest improvement. Our comments, while applying to actions in the Atlantic, also respond to the broader wind program as developed by BOEM.

Summary of Our Position

NOIA strongly encourages the Secretary of the Interior and BOEM to proceed with the broadest possible lease sales, planning, and development in all potential planning areas of the United States OCS. It is a critical signal to industry open a significant portion of the OCS and schedule regular lease sales in terms of acreage and potential power production. A firm commitment by BOEM to a clear leasing and regulatory structure that encourages domestic industry development will result in a firm foundation for significant investment in jobs, technology and economic opportunity throughout the nation. BOEM can be the catalyst for new significant energy security and increased revenue. . As we have seen with offshore oil and gas development, the benefits of offshore wind energy infrastructure will flow broadly to the entire nation in terms of jobs and energy security. BOEM is capable of building a national energy policy to compete within the global energy marketplace.

Setting and Reaching a Goal

NOIA strongly urges BOEM to develop a national wind leasing program with a goal of reaching at least two gigawatts of offshore leasing annually in the OCS. That level of leasing, and the subsequent development, will drive investment and capital construction for an active and competitive domestic supply chain for servicing, production and maintenance of offshore wind facilities. A competitive supply chain will not only expand jobs and benefits across industries, but will lower costs to developers, ratepayers and consumers.

As the agency responsible for leasing the entire United States OCS, BOEM has both the control and responsibility to plan if/when/what will be developed in the OCS. As the offshore wind industry looks to grow and engage in this tremendous opportunity, a clear commitment by BOEM will spur job creation and capital investment. While that leasing should focus most effort and resources on areas of significant interest, BOEM should not neglect efforts to expand leasing to all regions of the OCS in order to encourage a strong national program.

In addition, BOEM, as arbiter of the OCS, must be aggressive in managing the competing interests in the ocean space ensuring there is room for a growing domestic wind industry alongside existing and potential future OCS uses. Simply put, while BOEM must recognize the historic uses and competing demands for ocean space, advancing technology and energy development are critical pieces of the American resource puzzle. Finding space for their development should be a significant priority for BOEM, which has the responsibility to advocate for that development, when appropriate, in conjunction with other ocean uses.

State Engagement in Federal Resources

Wind resources in the OCS are owned by and should be developed for the benefit of all the American people, as made clear in the Outer Continental Shelf Lands Act.¹ While the recognition and mitigation of potential impacts and benefits to adjacent coastal states is critical to the development of energy, these resources are inherently federal and their development should be treated as such.

While it is critical that BOEM work with adjacent coastal states, BOEM must also continue to assert federal authority to drive the resource development in the OCS space. While offshore energy development is dependent on a federal, state, and local community partnership, BOEM should be confident in its efforts and continue to encourage states to support offshore development of America's resource bounty. The energy created by offshore development can benefit states not only adjacent to an ocean, but also other states not adjacent to the resource development area. BOEM should consult with state agencies, state planning boards or other entities, but not yield either management or authority to develop the OCS.

¹ “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 USC 1332 (3)

Overall Leasing Process and Environmental Review Reform For the Next Generation of Offshore Wind

As BOEM moves to essentially the second generation of leasing in the OCS, particularly in the Atlantic, finding ways to streamline the leasing process should be a significant priority. BOEM could focus on using additional work, targeted environmental studies and the use of categorical exclusions (CX) and Findings Of No Significant Impact (FONSI) during the pre-leasing process to shorten the post-lease permitting and construction phase.

BOEM could develop a program that includes multiple leases areas and use broader multi-sale Environmental Impact Statements (EIS) for leasing, which could shorten the post-lease process for developers. Another solution may be finding a method for BOEM to complete environmental and consultation work prior to leasing so that post-leasing work and permitting can be done under more efficient Environmental Assessments (EA). This would be similar to the oil and gas leasing process, where the National OCS Leasing Program establishes the EIS and subsequent lease sales, exploration plans, and development plans are tiered off that original work.

Another potential solution is the “design envelope”.. If studies were conducted by BOEM based on the maximum extent of the project at an early stage, using the envelope process would ensure all facets of the project were considered as the project winnows. This process should lead to a more efficient and more environmentally responsible NEPA process.

BOEM could also perform desktop studies and preliminary surveys (environmental, metocean, geophysical, geotechnical) and provide the resulting data to bidders and stakeholders prior to the lease auctions. Doing so in concert with the pre-leasing process, such as in a programmatic multi sale leasing environmental impact statement (EIS), could accelerate the project from lease phase to construction phase. Undergoing this critical and important environmental work early, could allow many important aspects of marine site characterization (e.g. metocean buoys, subsurface seismic) to be realized earlier. These services reduce the risks and costs associated with wind farm development, and could lower costs for projects across the board. In addition, having BOEM conduct this work pre-lease could speed up the post-lease process, and potentially allow the costs associated with this work to be reclaimed by BOEM through higher lease values at the time of sale.

BOEM has built an environmental record of the impacts of OCS wind leasing over the last decade of leasing activity. Now, as more construction activity starts to occur, BOEM’s ability to understand and approve environmental analysis on offshore wind projects in the OCS should shorten the process. This larger database of experience should allow BOEM to expand the use of CXs for OCS permitting and define a clearer designation of categories of activities that meet the requirements for a FONSI. BOEM can then exclude that category from future and redundant studies. One example could be to study buoys as a CX, as it is hard to come up with a plausible way that small, temporary metrological buoys could have any significant impact to the environment. BOEM’s reluctance to issue CXs for duplicative and unnecessary environmental work can needlessly slow offshore research and project development.

Technological Advancements and Water Depth

One of the greatest challenges facing regulatory agencies is keeping up with technological advancements in a rapidly developing industry. There is no doubt that the offshore wind industry is experiencing a tremendous technological boom. Project sizes previously unimagined are now the norm and turbine height, size and related energy production is advancing by leaps and bounds. While BOEM has made great strides in advancing shallow-water leasing in the Atlantic, we urge BOEM to keep an eye on wind resources in other offshore areas where new advancing technologies are ripe for deployment. If BOEM doesn't make those areas available in a timely fashion we may miss out on important technological and resource development opportunities. BOEM should aggressively lease areas in less than sixty meters of water and focus additional understanding on the state of technology of floating offshore wind structures, which has advanced to the point of viability today. BOEM should ensure that there are leasing opportunities to accommodate this technology. That would mean a focus on deeper water development in the Atlantic Ocean and leasing in the Pacific Ocean, including areas offshore the mainland United States, Hawaii and U.S. territories.²

Expanding the Outer Continental Shelf Lands Act (OCSLA)

BOEM should take steps to expand the OCSLA to the territories of the United States. NOIA members are ready to explore opportunities off of Guam, Puerto Rico, and potentially other U.S. territories; however, BOEM currently has no ability to allow leasing in these areas. BOEM should study the resources available in these regions to highlight the potential missed opportunities for the United States and our territories by not being able to develop off of Guam, American Samoa, U.S. Virgin Islands, Commonwealth of the Northern Marianas and Puerto Rico. BOEM should make clear to Congress the potential benefits and opportunities that could flow from leasing and energy development in the U.S. territories.

Incidental Harassment Authorizations (IHA) Process Reforms

History clearly shows that BOEM consultation with the National Oceanic and Atmospheric Administration (NOAA) and National Marine Fisheries Service (NMFS) over offshore permitting is a challenging process. BOEM needs to find better methods to hold the other agencies accountable for their required review and processing of IHA permits. IHA permit reviews should be completed within the statutory requirement of 120 days and accurately define the risk of aggravating marine life. Currently, requirements are more onerous for specific work than is reasonably necessary.

Reforming the Bidding Process and Return for the Taxpayer

In the beginning of the OCS leasing program, BOEM built a leasing structure based on multiple factor auction (MFA) arrangements in lease sales to ensure that successful bidders were in a

² See recommendation below on United States Territories

position to achieve successful wind development. Today's offshore wind industry has reached the point where greater competition means BOEM can focus on maximizing return to the taxpayer.

It is important for the offshore wind industry to be treated and viewed by stakeholders as a mature industry able to play a role in the energy mix, as environmental stewards, job creators and as a source of revenue to the treasury in exchange for using the wind resources harnessed by infrastructure built on public submerged lands and waters. Because of the number of companies that have demonstrated serious interest in leasing and/or participated in lease sales, the offshore wind industry should be in a position where lease sales are won based on the highest dollar amount bid without market distortions, like bidding credits or non-monetary factors.

Additionally, awarding leases to companies with the highest bid removes any doubt about transparency and avoids criticism of how BOEM determined credits or which factors BOEM believes to be worth non-monetary rewards. Wind producers have built models of Community Benefits Agreements, Power Purchase Agreements and other factors that are important and will continue regardless of whether credits or other incentives are offered. The offshore wind industry has a track record of working across the board with stakeholders and will continue to do so regardless of credits. We recognize that the immediate elimination of bidding credits and other factors from leasing may be a shock to the system, we encourage BOEM to consider doing so.

However, if BOEM cannot, or will not, eliminate multiple factor bidding there should be clear conditions that BOEM considers unacceptable as factors to include. BOEM's own study, "Multiple Factor Auction Design for Wind Rights", included the recommendation that:

"Crucially the criteria need to be transparent (documented ahead of time), objective (must not require subjective evaluation), simple (ideally, it should have a clear "yes" or "no" answer), and verifiable (BOEMRE can ask for evidence to support the answer)."³

We suggest adding "competitive" to these conditions. Any condition which BOEM considers in a multiple factored sale should be competitive and available to any bidder in the lease sale. The development of non-competitive clauses for factors which may be considered by BOEM as "credible" in lease sales should be unacceptable. If any factor considered for a lease is deemed non-competitive or includes a non-competitive clause, BOEM should not allow that factor to be used. Setting a system where bidders must rush to game non-competitive agreements with various communities, agencies or institutions prior to leasing in order to gain fractional benefit harms taxpayer return and sets poor precedent for development. In addition, lease credits should not be available for direct agreements, approvals, NEPA determinations or project evaluation determination with or by other federal agencies.

Also, BOEM's own multiple factor study recommended, "that the total bid discount be no more than 25%"⁴; however, we consider that number to be too high. We strongly urge BOEM to

³ Multiple Factor Auction Design for Wind Rights Authors: Lawrence M. Ausubel Peter Cramton
[https://www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/Regulatory_Information/AusubelCramtonPaper2](https://www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/Regulatory_Information/AusubelCramtonPaper2.pdf)

⁴ ibid

eliminate the multiple factor component; however, if BOEM will not, then we recommend that the level be set no higher than 10% of potential credits and only then if clearly identified under the conditions above: transparent, objective, simple, verifiable and competitive.

Building and Staffing an OCS workforce

While BOEM isn't the lead agency on such issues, a domestic energy workforce will be contingent on availability of skilled and trained workers. If there is not an adequate local US workforce, ensuring that there are enough available workers and the proper visas for crewmembers who will work on offshore wind projects is critical. Specifically, to obtain a B-1 (OCS) visa, which the State Department has identified as the proper visa for foreign crew undertaking OCS related activities on the U.S. OCS, owners and operators of foreign vessels must obtain an Exemption Letter from the Coast Guard exempting the vessel from U.S. citizen crewing requirements. To obtain an Exemption Letter companies must demonstrate that their vessels will be involved in an "OCS activity" under OCSLA. While BOEM has taken the correct position that offshore wind installation is an "OCS activity" within the meaning of OCSLA, the Coast Guard has taken a contrary position and has refused to issue a single Exemption Letter related to offshore wind work.

The Coast Guard takes the position that offshore wind work performed on the OCS is not an "OCS activity" within the meaning of OCSLA. Despite statutory language to the contrary, the Coast Guard's interpretation concludes that only the production of oil and gas can constitute an "OCS activity" within the meaning of the statute. Accordingly, the Coast Guard has thus far declined to issue an Exemption Letter for non-mineral producing activities such as offshore wind installation work.

We encourage BOEM to continue to engage in discussions with the Coast Guard and U.S. Customs and Border Protection to ensure that the relevant companies can obtain the proper visas needed for work in installation of offshore wind farms. Pursuit of a memorandum of understanding which provides regulatory certainty to the industry would be helpful for future development.

Safety, Fishing and Tourism

While working offshore and heavy industrial manufacturing pose certain dangers and risks, the offshore wind industry has a remarkable track record of safety. Our companies will continue to invest heavily in a workforce of highly trained people knowledgeable about safety practices and committed to a culture of safety. BOEM should proceed with confidence knowing that this is an industry prepared to protect America's workers and environment.

Finally, many opposed to offshore wind development cite concerns over conflicts with existing activities and the local way of life. However, pitting development of the OCS against tourism, fishing, or recreation creates a false choice. NOIA's oil and gas industry members have decades of experience in the Gulf of Mexico, Alaska and off the coast of California showing that oil and natural gas development and other ocean industries can co-exist and thrive alongside each other. This has been proven time and time again. Be it interactions with the Department of Defense or development of fishing or conservation resources like sanctuaries, industry has proven capable of being a good neighbor and compatible operator in the shared ocean space.

Development of the offshore wind industry faces many of the same challenges, with concerns over DOD interactions, established fisheries, and local concerns over sight lines and property values. As evident in the Gulf of Mexico, the offshore industry knows how to address these concerns and live in harmony with other interests. America needs offshore wind development for our national energy future. Finding space in the OCS to lease that energy while balancing these needs should not be a conflict but a solution. BOEM is the arbiter of that solution and should endeavor to develop the suggested policies, procedures, and streamlining as expeditiously as possible.

Closing

In closing, we reiterate NOIA's support for the work that BOEM has done in the Atlantic on offshore wind leasing and our support for the broadest possible national plan for future wind leasing. BOEM's efforts in the OCS can create jobs, give America greater economic, energy and national security, and simultaneously preserve the shared environmental and social values which make America special. This kind of energy development is the type of America First plan which will ensure a generation of American energy dominance.

Sincerely,

A handwritten signature in dark grey ink, reading "Tim Chaters". The signature is fluid and cursive, with a large initial "T" and a long horizontal stroke extending to the right.

Vice-President
Government and Political Affairs
National Ocean Industries Association