January 3, 2022

Submitted via: http://www.regulations.gov

Bureau of Ocean Energy Management
U.S. Department of the Interior

Re: BOEM-2021-0078, Proposed Sale Notice
Offshore Wind Leasing in the Carolina Long Bay Area: Atlantic Wind Lease Sale 9
86 Fed. Reg. 60,274 (Nov. 1, 2021)

To whom it may concern:

The National Ocean Industries Association ("NOIA") appreciates the opportunity to provide comments on the above-referenced Proposed Sale Notice ("PSN") of the Bureau of Ocean Energy Management ("BOEM") for offshore wind leasing in the Carolina Long Bay area. An almost 50-year-old organization, NOIA represents all segments of the offshore energy industry. This includes leasing and development of traditional fossil fuels such as oil and gas, and important new sources of energy like offshore wind. Further, our members include not just energy developers, but also the businesses large and small that do the work of building, supplying, and maintaining these projects. In other words, we represent thousands of blue-collar and white-collar employees stretching from New England to the Gulf Coast and across the nation. In fact, NOIA members have been critical in building out not only the pioneering turbines off the coasts of Northern Europe, but also the limited yet growing number of turbines in U.S. waters.

NOIA strongly supports ongoing attempts to build new offshore wind resources in federal waters. That support extends to efforts, like the present proposal and the prior Kitty Hawk lease sale, to pursue offshore wind leasing and development on the Outer Continental Shelf ("OCS") offshore the Carolinas. Offshore wind projects are vital to the economic growth of this country and efforts to meet climate goals for the 21st century and beyond. According to a recent report co-sponsored by NOIA, we have a market for wind energy currently estimated at over $120 billion[1] off America's coasts, including in the Carolina Long Bay area. As detailed in that report, forecasted potential lease sales in the Carolina Long Bay area may raise as much as $114.5 million in auction revenue and yield as much as 1,863 MW of power.

NOIA commends BOEM for issuing this PSN and urges BOEM to conduct this lease sale promptly. There exists an incredible opportunity to seize upon the strong momentum at both the state and federal levels for wind power generation offshore North Carolina. While NOIA continues to advocate for the rescission of the misguided September 2020 withdrawals of the

[1] *See* American Clean Power Association, et al., *Federal Revenue and Economic Impacts from BOEM Offshore Wind Leasing* (December 2021), https://cleanpower.org/resources/federal-revenue-and-economic-impacts-from-boem-offshore-wind-leasing/.

Carolinas OCS areas for federal leasing for ten years after June 30, 2022, BOEM should lease before that date to avoid any uncertainty regarding lease validity.

We also write to highlight key considerations for BOEM's Final Notice of Sale for Carolina Long Bay. First and foremost, should BOEM depart from the single-factor, cash bid auction format for offshore wind leasing, it should ensure that any multiple-factor approach is designed to similarly be transparent, easy to administer, and yield a fair economic return for the United States. In particular, we fully support the offshore wind workforce training and domestic supply chain development goals stated by BOEM, but we remain concerned that the proposed multiple-factor auction format for Carolina Long Bay lacks the necessary specificity at this point.. These uncertainties extend to both the mechanics of the auction itself and the subsequent timing and recipients of credited funds. Some of our members believe BOEM's worthy goals might be better realized after a lease sale, via stipulations in the lease or development plan approvals.

Second, BOEM must structure its proposed lease terms to attract robust bidding and best ensure successful wind development in leased areas. These terms must also facilitate critical activities of service operators, supply chain manufacturers, and other offshore wind job creators, in coordination with state and local programs. In particular, if BOEM alters its current proposal to conduct a single lease sale for the entire Carolina Long Bay area, BOEM should ensure sufficient acreage to elicit robust bidding, attract necessary investment, and build viable wind projects. In response to one of the PSN's specific questions, BOEM should not prescribe uniform and aligned turbine layouts in the lease sale, but rather incorporate lessee flexibility at the later Construction and Operations Plan ("COP") and Facility Design Report and Facility Installation Report ("FDR" and "FIR") stages. BOEM should continue to employ a flexible design envelope approach to enable optimal turbine siting and allow projects to leverage technological advancements as they become commercially available in this fast-evolving industry.

NOIA reserves the right to amend or supplement these comments as warranted, including in response to any Final Sale Notice by BOEM for Carolina Long Bay.

FEDERAL AND STATE LEADERS SUPPORT OFFSHORE WIND

This is a vital time for the United States' climate and energy future. President Joseph R. Biden came into office with a promise to reduce the carbon-intensity of the American economy and meet our country's goals to avert the worst potential impacts of climate change. As part of this, in the President's first days in office he signed an Executive Order in which he declared a goal of "doubling offshore wind by 2030."[2] Secretary of the Interior Deb Haaland has been equally vocal, recently saying "The demand for offshore wind energy has never been greater. Recent technological advances, falling costs, and tremendous economic potential make offshore wind a

[2] https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/

promising avenue for diversifying our national energy portfolio, creating good-paying union jobs, and tackling climate change....”[3]

We have seen similar support at the regional level. Indeed, on June 9, 2021, North Carolina Governor Roy Cooper issued Executive Order No. 218 calling for the development of 2.8 GW of offshore wind by 2030, with a total of 8 GW by 2040, thereby fueling demand for commercial development in this region. North Carolina’s Clean Energy Plan also sets goals to reduce power sector greenhouse gas emissions by 70% by 2030, and to attain carbon neutrality by 2050.[4] Quite simply, neither the goals set by President Biden and Secretary Haaland, nor those set by regional leaders, can be met without timely auctioning the Carolina Long Bay area, as well as holding future wind lease sales offshore the Carolinas. There is clear local and national support for offshore wind in this region and an economic opportunity ready to be seized.

OFFSHORE WIND CAN BE REALIZED FAIRLY AND RESPONSIBLY

As reflected in BOEM’s NEPA documents for the proposed Carolina Long Bay lease sale, including the recently released Supplemental EA, offshore wind development results in minimal negative impacts. This basic conclusion is consistent with BOEM prior-generated NEPA documents for other OCS wind leases and projects, and we have every reason to believe it will hold true in the Carolina Long Bay area. For example, while there has been no shortage of focus on subjects like marine mammal protection, we remain proud of the notable coordination between developers, their contractors, and the environmental community.[5]

Regarding viewshed issues, it has become clear that even fixed-bottom projects can be accomplished without impacting onshore communities. For example, BOEM has concluded for the Vineyard Wind project that even on a day with excellent visibility “offshore wind projects would appear relatively small to an observer, appearing to be less than 0.1 inch (0.25 centimeter) tall on the horizon.”[6] Regardless of project design, we expect that any local concerns with project visibility offshore North Carolina similarly can be alleviated, particularly given that by the time a wind project there is underway we will likely have significant experience with East Coast construction and operations. Visibility is especially absent at the lease sale stage. Indeed, BOEM’s Supplemental EA reaffirms that any visual resource impacts from lease issuance and site assessment activities will be negligible, including due to anticipated use of meteorological buoys in lieu of towers.

Likewise, decades of experience have shown that recreational and commercial fishing and energy development can readily co-exist. Similar to Gulf of Mexico oil and gas platforms, offshore wind turbine foundations will serve as artificial reefs benefitting fisheries and the

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[3] https://www.doi.gov/pressreleases/secretary-haaland-highlights-tremendous-offshore-wind-opportunities-virginia-governor

[4] *See* https://deq.nc.gov/energy-climate/climate-change/nc-climate-change-interagency-council/climate-change-clean-energy-plans-and-progress/clean-energy-plan.

[5] https://www.nrdc.org/experts/francine-kershaw/landmark-offshore-wind-agreement-protects-right-whales

[6] https://www.boem.gov/sites/default/files/documents/renewable-energy/Vineyard-Wind-1-Supplement-to-EIS.pdf

fishing community. Mitigation measures such as proper layout and design allowing fishermen access to grounds, adequate surveys, and active coordination will further minimize potential fishing impacts from offshore wind. Our members already are conducting such steps for first-mover projects.[7] Even before securing a lease, we have member companies drafting plans[8] for best practices to work *with* the fishing community and many have designated a point of contact for fishermen.

We agree with these upfront efforts to deconflict development of offshore wind and other offshore activities. However, it is critical to note that the areas open to wind energy have already been pared back and represent only a tiny fraction of the OCS. In short, BOEM is already leaving behind renewable energy resources and investible opportunities to accommodate the fishing community. Our industry stands ready to continue its work with the fishing community, but in the end this is a public resource—America's federal waters—that can and should be shared in a way that allows all stakeholders to compatibly thrive and preserve the region for the next generation.

IF BOEM PURSUES A MULTIPLE-FACTOR AUCTION, ITS TERMS AND IMPLEMENTATION MUST BE TRANSPARENT AND CERTAIN IN ADVANCE.

Though the PSN cites BOEM's discretion to use a multiple-factor auction format and bidding system for offshore wind leasing, a multiple-factor approach, particularly non-monetary factors, the Department is certainly entering relatively uncharted territory. Indeed, BOEM has traditionally conducted lease auctions with cash bonus bids and a fixed royalty rate. BOEM's recent Proposed Sale Notice for the New York Bight does not include non-monetary factors in the planned auctions and mentions only consideration of potential lease stipulations directed at workforce training and development and other community benefits. 86 Fed. Reg. 31,524, 31,527 (June 14, 2021). That approach accords with BOEM's stated intention a decade ago, in its Request for Information on auction formats generally, to consider non-financial factors for lease auctions only "in certain limited circumstances." 76 Fed. Reg. 76,174, 76,176 (Dec. 6, 2011).

To be clear, NOIA is not diametrically opposed to the use of multiple-factor auction formats in the offshore wind space. However, in the event BOEM does proceed with a multiple-factor auction for Carolina Long Bay, it is incumbent on BOEM first to provide more specifics and a fuller explanation than contained in its PSN. NOIA is unaware of any prior federal lease auction utilizing bidding credits for non-monetary components—aside from instances of a bidder holding a power purchase agreement or joint developer agreement—let alone an auction bidding credits for promotion of workforce training or domestic supply chains. BOEM must provide these details and justifications at the outset, rather than after the auction has already occurred, to protect the integrity of the auction and yield a fair outcome.

As currently proposed, BOEM's multiple-factor approach raises several questions. First, it is unclear at the leasing stage what recipients BOEM will consider eligible for and deserving of

[7] https://www.vineyardwind.com/fisheries-science
[8] https://www.enbw.com/media/enbw_us/docs/fisheries-outreach.pdf

credited funds. The Lease Package accompanying the PSN, in Section 7 of Addendum C,[9] simply states that "BOEM will determine whether the payment satisfies the bidding credit requirements." The PSN provides no standards or sideboards to prevent arbitrary agency action years after the lease sale is concluded. For example, BOEM's Lease Package acknowledges that support of "existing programs with similar goals" may qualify, but BOEM identifies no such existing programs. As a practical matter, BOEM will face immense pressure years from now to accept the winning bidder's proposed allocation of credits so as to avoid recommencing the entire leasing process and delaying offshore wind development at Carolina Long Bay. Addendum C also allows BOEM to extend credit commitment deadlines for "an unforeseen event." The federal government thereby might collect less revenue and experience suboptimal realization of the credits' goals.

Conversely, if BOEM several years later perceives an opportunity to realize higher revenues by collecting the existing credits, BOEM need only "enforce" the commitment and disapprove the lessee's proposed credit payments. It also remains unclear whether a perceived failure to satisfy the commitment could trigger lease termination. If so, in theory it could enable BOEM to derive even more revenues by re-leasing the Carolina Long Bay area. If not, then the lessee could use the bid credits to effectively defer bonus payment beyond the due date for a full upfront bonus bid without use of credits, creating an unfair advantage over other bidders at the lease sale.

Second, a lack of certainty introduces risk for prospective bidders. Namely, to utilize the proposed bidding credits, bidders must make an irretrievable commitment of millions of dollars towards undefined policy goals, based only on the hope that BOEM will ultimately concur with the lessee's implementation of those funds. The PSN also places no cap on the size of these upfront cost commitments. A requirement to furnish these credited funds when submitting the FDR also is arguably premature, as the full details of labor, materials, and facility construction may come later or change, including from robust ongoing coordination among the lessee and local communities and stakeholders. That is, prematurely locking in state or local-level commitments at the FDR stage could counterproductively stifle even more promising opportunities later. Additionally, the PSN seemingly provides no flexibility for circumstances outside the lessee's control that may complicate or delay dissemination of the credits, other than BOEM's discretion for an undefined "unforeseen event" exception in the Lease Package.

Third, the PSN does not explain how BOEM will "enforce" bidder commitments for worker training or supply chain development, either initially when the lessee must outlay the funds, or during implementation and allotment of those funds. At base, BOEM manages OCS leases. BOEM does not oversee the training of the offshore wind workforce or the manufacture of the many necessary physical components for offshore wind projects. BOEM should substantiate its institutional capability and capacity to determine optimal fund recipients, and to measure and track progress toward its workforce and supply chain goals. BOEM should also clarify whether it views the deferred bid credits as implicating federal funds. If so, it should reconcile the PSN's proposal to prescribe allocation of bid credits with BOEM's November 22, 2021, Request for

[9] The Table of Contents for Addendum C appears to omit Section 7.

Information on guidance for mitigating fisheries impacts from offshore wind, which states that "BOEM lacks the legal authority to hold funds received or assess industry fees for mitigation."

Fourth, the precise logistics of the auction are unclear from the PSN, namely when and how bidding credits are claimed. On the one hand, the PSN states that "the winning bidder" may elect to claim a credit for up to 20% of its winning bid. 86 Fed. Reg. at 60,276. This suggests that the auction rounds may proceed solely by ascending bonus bids, with any credit applied once only one bidder remains. Or, at a minimum, it suggests that in a given round BOEM would equate a full upfront bonus bid and another bid that is 20% lower so long as it contained a deferred commitment of 80% of that 20% lower increment. Yet, if that is true, it is unclear what function the PSN's referenced and unnamed "panel of BOEM employees" play prior to, during, and after the lease sale, or what additional factors they would consider in verifying the results. *Id.* It also is unclear whether bidders may simultaneously claim *both* workforce training credits and supply chain development credits, and whether BOEM would view either goal or a given allocation more favorably in awarding a lease for Carolina Long Bay. This auction uncertainty contrasts with BOEM's rare multiple-factor auctions. For example, prior to its 2013 wind lease sale offshore Massachusetts, BOEM first evaluated and communicated prospective bidders' eligibility for certain bidding credits based on their already holding a power purchase agreement or joint development agreement. *See* 78 Fed. Reg. 33,898, 33,904 (June 5, 2013) (Final Sale Notice). And BOEM's 2016 wind lease sale offshore New York employed a straightforward 10 percent bidding credit for "governmental authorities" and issued pre-auction eligibility determinations. *See* 81 Fed. Reg. 75,429, 75,435 (Oct. 31, 2016) (Final Sale Notice). But at Carolina Long Bay, BOEM is not proposing such a measurable or readily translatable bidding credit for use at the auction, and as noted above would defer evaluation and implementation of the credits until years after the auction.

To be clear, NOIA supports the need to rapidly develop and deploy a robust offshore wind workforce and supply chain right here in the United States, and appreciated the dedication of federal, state, and private sector funds towards accomplishing this mission. However, any multiple-factor auction should ensure that all developers are able to achieve an even playing field so that all companies have a chance to hit the requirements for the bidding credits. The Final Sale Notice also should provide sufficient advance information and time for companies to structure their bids accordingly. The above questions are only a few of those that prospective bidders need clear answers to from BOEM in the Final Sale Notice if BOEM ultimately employs a novel multiple-factor auction for Carolina Long Bay.

OCS WIND LEASES SHOULD MAXIMIZE FLEXIBILITY AND MINIMIZE BURDENS ON LESSEES AND CONTRACTORS.

We understand Interior is working with significant acreage and seeking ways to potentially lease it in a way that is equitable. We applaud these efforts and recognize that the Department is particularly interested in building up the domestic supply chain and helping bring jobs to long underserved communities. The majority of NOIA's members are in the service and supply industries—rather than large operators and developers—and we know that many of them are performing due diligence to find ways to invest in local communities. Thus, BOEM's PSN has the potential to trigger the creation of significant jobs across the supply chain and benefit local communities as well.

Yet, apart from the concerns with bidding credits discussed above, we would caution that it may not be appropriate to put conditions on leases *requiring* certain types of local investment. Quite simply, we feel that such requirements at the pre-leasing stage could create undue burdens on stakeholders, be difficult to coordinate and plan as companies examine ways to deploy capital and target investments, and possibly even divert planning resources from companies that may not secure a bid anyway. This is particularly important knowing that the Biden Administration is already looking at ways to spur domestic manufacturing.[10] The supply chain for offshore wind is long and robust, requiring the support from hundreds, and perhaps thousands, of vendors. While much of this support will be derived locally, vendors from throughout the country will be required for projects, particularly in the beginning stages of the U.S. offshore wind sector. Flexibility will be crucial for success here.

Further, our members are navigating the potential of state and local requirement rules already. Developers and their partners in the service and supply side are making decisions on how best to invest ahead of what will prove to be a trans-regional opportunity. Some equipment will be made at existing facilities along the Gulf Coast that have historically served the oil and gas industry with a diverse workforce. As business decisions are being made, implementation flexibility and certainty of a project pipeline are the best ways to attract investment. Letting our members and the industry know that leases are coming, and that a reasonable pipeline for reviewing and approving COPs will follow, will provide the certainty to attract capital and invest in facilities.

We also continue to caution about the outlook for prescriptive requirements on spacing for transit of vessels. We know that there are reasonable approaches to allowing the transit of fishing, shipping, or recreational vessels through turbine areas. To the extent the Department is examining designated spacing or separation within lease areas or between individual leases, the distancing should be as consistent as possible and use existing terminology and standards to avoid undue confusion. The Department should focus on coordinating with the U.S. Coast Guard to ensure that these areas have workable guidelines for vessel transit and have clear and consistent aids to navigation. However, we continue to believe that corridors between leases and lanes within lease areas are not—and should not be mandated as—a one-size-fits-all-regions matter. Ultimately, the optimal layout of any project, including fairway locations, depends on a number of factors driven by technological factors along with local needs and uses, making such decisions ill-suited for a predetermined model.

BOEM has also requested input on whether to hold one or more sale at Carolina Long Bay. Whether BOEM holds one or more lease sale in this area, at the very least we recommend against minimizing lease sizes. Rather, each lease should be sufficiently sized to attract

[10] https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/29/fact-sheet-biden-administration-jumpstarts-offshore-wind-energy-projects-to-create-jobs/

necessary investment for viable wind development. In our recently co-sponsored report[11], based upon recent lease block trends, we assumed that BOEM would hold only one lease sale in this area, comprising 127,865 acres and potentially hosting a project exceeding 1,800 MW of installed wind capacity. We also assumed, for each lease region, a standard project as encompassing a 1,200 MW wind farm using 80 turbines, each with a nameplate capacity of 15 MW. Consistent with these projections, BOEM should plan to hold subsequent Carolinas lease sales to fully realize the area's potential for offshore wind.

CONCLUSION

In sum, offshore wind leasing in the Carolina Long Bay area offers enormous economic and environmental benefits and is necessary to meet state and federal renewable energy goals. We encourage the Department to quickly move forward with wind leasing in this area, while affording sufficient incentives and avoiding unnecessary restrictions on offshore wind development.

Very respectfully,

Erik Milito
President
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//Submitted Electronically

[11] American Clean Power Association, et al., *Federal Revenue and Economic Impacts from BOEM Offshore Wind Leasing* (December 2021), https://cleanpower.org/resources/federal-revenue-and-economic-impacts-from-boem-offshore-wind-leasing/.