

time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

(Authority: 43 CFR 1784.4–2)

**Douglas J. Vilsack,**

*BLM Colorado State Director.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

[Docket No. BOEM–2024–0017]

#### Gulf of Mexico Wind Lease Sale (GOMW–2) for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore in the Gulf of Mexico—Proposed Sale Notice

**AGENCY:** Bureau of Ocean Energy Management, Interior.

**ACTION:** Proposed sale notice; request for comments.

**SUMMARY:** The Bureau of Ocean Energy Management (BOEM) proposes to hold Gulf of Mexico Wind Lease Sale (GOMW–2) for multiple lease areas (Lease Areas) using a multiple-factor bidding auction format. BOEM will use new auction software for the lease sale, resulting in changes to its previous auction rules. This Proposed Sale Notice (PSN) contains information pertaining to the areas available for leasing, certain lease provisions and conditions, auction details, lease forms, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution procedures. The issuance of any lease resulting from this sale would not constitute 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 BOEM decision whether or not to approve them.

**DATES:** Comments must be submitted electronically or postmarked received by BOEM no later than May 20, 2024. All comments received or postmarked during the comment period will be made available to the public and considered prior to publication of the Final Sale Notice (FSN).

For prospective bidders who wish to participate in this lease sale: Unless you have received confirmation from BOEM that you are qualified to participate in the GOMW–2, BOEM must receive your qualification materials no later than May 20, 2024, and, prior to the auction, BOEM must confirm your qualification to bid in the auction.

**ADDRESSES:** Potential auction participants, Federal, State, and local government agencies, Tribal governments, and other interested parties are requested to submit written comments on the PSN in one of the following ways:

- *Electronically:* <https://www.regulations.gov>. In the search box, enter “BOEM–2024–0017” and click “Search.” Follow the instructions to submit public comments.

- *Written Comments:* Submit written comments in an envelope labeled “Comments on GOMW–2 Lease Sale PSN” and delivering them by U.S. mail or other delivery service to Bureau of Ocean Energy Management, Office of Leasing and Plans, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123.

*Qualification Materials:* To qualify to participate in a lease sale following the publication of this PSN, qualification materials should be developed in accordance with the following guidelines (<https://www.boem.gov/Renewable-Energy-Qualification-Guidelines/>) and submitted to Renee Bigner, Bureau of Ocean Energy Management, Office of Leasing and Plans, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123 or electronically to [renewableenergygomr@boem.gov](mailto:renewableenergygomr@boem.gov). If you wish to protect the confidentiality of your comments or qualification materials, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label privileged or confidential information with the caption “Contains Confidential Information” and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in section XXI, “Protection of Privileged or Confidential Information.” Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

**FOR FURTHER INFORMATION CONTACT:** Renee Bigner, Bureau of Ocean Energy Management, Office of Leasing and Plans, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123, (504) 736–7623 or [renee.bigner@boem.gov](mailto:renee.bigner@boem.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

*Request for Interest:* On June 11, 2021, BOEM published a Request for Interest (RFI) for commercial leasing for wind power development on the Gulf of Mexico OCS. The RFI Area comprised the entire Central Planning Area (CPA) and Western Planning Area (WPA) of the Gulf of Mexico, excluding the portions of those areas located in water

depths greater than 1,300 meters. BOEM received 39 comments from the general public; Federal, State and local agencies; the fishing industry; industry groups; developers; Non-Governmental Organizations (NGOs); universities; and other stakeholders. The subjects receiving the most comments were fisheries and marine mammals. Five developers submitted indications of interest for a commercial wind energy lease within the RFI Area in response to the RFI.

*Call for Information and Nominations:* On November 1, 2021, BOEM published the Call for Information and Nominations—Commercial Leasing for Wind Power Development on the Outer Continental Shelf in the Gulf of Mexico.<sup>1</sup> The Call Area comprised the area located seaward of the Gulf of Mexico Submerged Lands Act Boundary, bounded on the east by the north-south line located at –89.857° W longitude, and bounded on the south by the 400-meter bathymetry contour and the U.S. Mexico Maritime Boundary established by the Treaty between the Government of the United States of America and the Government of the United Mexican States on the Delimitation of the Continental Shelf in the Western Gulf of Mexico beyond 200 Nautical Miles (U.S.-Mexico Treaty), which took effect in January 2001. BOEM received 40 comments from the general public, Federal, State, and local agencies, fishing industry, industry groups, developers, NGOs, universities, and other stakeholders. The subjects receiving the most comments were fisheries and marine mammals. Five developers nominated areas for a commercial wind energy lease within the Call Area in response to the Call.

*GOMW–1 Area Identification:* After the close of the Call comment period on December 16, 2021, BOEM initiated the Area Identification (Area ID) process by reviewing the input received to date. On July 20, 2022, BOEM announced it was seeking public comments on two preliminary WEAs. The first WEA was located approximately 24 nautical miles (nm) off the coast of Galveston, TX, covered a total of 546,645 acres, and had the potential to power 2.3 million homes with clean wind energy. The second WEA was located approximately 56 nm off the coast of Lake Charles, LA, covered a total of 188,023 acres, and had the potential to power 799,000 homes. The public comment period was open for 30-calendar days.

For purposes of recommending the Preliminary WEAs, BOEM considered

<sup>1</sup> <https://www.boem.gov/83-FR-15602/>.

the following non-exclusive list of information sources: comments and nominations received on the RFI and Call; information from the GOM Intergovernmental Renewable Energy Task Force; input from Alabama, Mississippi, Louisiana, and Texas State agencies; input from Federal agencies, e.g., Department of Defense (DoD), and U.S. Coast Guard (USCG); comments from stakeholders and ocean users, including the maritime community, offshore wind developers, and the commercial fishing industry; State and local renewable energy goals; and information on domestic and global offshore wind market and technological trends.

BOEM received ocean users' feedback requesting BOEM to consider using an existing ocean planning model previously used in the GOM for the National Oceanic and Atmospheric Administration's (NOAA) Aquaculture Opportunity Areas for ocean planning purposes. In response, BOEM used the ocean planning model to help support the identification of Preliminary WEAs.

BOEM's process to identify Preliminary WEAs in the GOM was based on rigorous science, detailed in the "A Wind Energy Area Siting Analysis for the Gulf of Mexico Call Area" report (<https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/GOM-WEA-Modeling-Report-Combined.pdf>), to drive an informed, forward-looking, and sustainable industry to maximize operational efficiency and limit adverse interactions with other industries or natural resources. Additionally, BOEM's Gulf of Mexico Regional Office (GOMR) and the NOAA National Centers for Coastal Ocean Science (NCCOS) collaborated in using an ocean planning tool to identify Preliminary WEAs on the U.S. OCS in the GOM. Preliminary WEAs were identified, based on the best available science and through public engagement, to facilitate wind energy development; support environmental, economic, and social sustainability; and minimize resource use conflicts. The WEA process seeks to identify and minimize potential conflicts in ocean space as well as mitigate interactions with other users and adverse interactions with the environment; the NCCOS model is a tool to help support that effort.

Planning and siting for the WEAs required thorough synthesis and spatial analyses of critical environmental data and ocean space use conflicts. BOEM used Geographic Information Systems (GIS) to integrate pertinent spatial data, perform analyses, and generate map-based products to inform where

potential wind energy area(s) would be located within the Call Area. BOEM sought to identify wind energy areas in a manner that avoids or minimizes impacts on environmental resources. The use of this NCCOS model is one approach to meet that objective.

BOEM has engaged in similar ocean planning efforts in other OCS Regions. Ocean planning processes often follow a standard workflow through (1) identification of the planning objective, (2) inventory of data, (3) geospatial analysis of data, (4) interpretation of results, and (5) delivery of map products and reports to decisionmakers and other ocean users. Spatial data are used to represent known or potential environmental and ocean space use conflicts that could constrain, or conditionally constrain, the siting of offshore wind facilities on the U.S. OCS. Using a multi-criteria decision approach allows for evaluation of numerous spatial data types for an area and provides a relative comparison of how suitable the areas are for offshore wind development. Additionally, natural and cultural resources, industry and operations, various fishing activities, logistics, economics, and national security are described and identified in the WEA model suitability analysis, which is discussed in detail in the Gulf of Mexico Wind Energy Area Modeling Report (<https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/GOM-WEA-Modeling-Report-Combined.pdf>).

Additionally, WEA siting informed by ocean planning is helpful in avoiding and minimizing adverse environmental, social, and existing user interactions. Throughout the Area ID process, BOEM used existing datasets to facilitate discussions with ocean users to receive early feedback. BOEM incorporated the feedback from ocean users in the spatial and temporal planning strategies to allow initial compatibility to be assessed while also increasing the efficiency of meaningful communications within and among stakeholders and potentially with industry. The Preliminary WEAs resulting from this analysis are then considered by the decisionmaker to inform the siting of offshore wind.

After the close of the Preliminary WEA comment period on September 2, 2022, BOEM finalized the Area ID process by reviewing the input received from all stakeholders mentioned above.

BOEM completed the Area ID on October 31, 2022, by identifying the following WEAs within the Call Area: Louisiana Coast Region (Lake Charles WEA) and the Texas Coast Region (Galveston WEA). The Area ID

announcement and a map of the WEAs are available at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.

#### *GOMW-2 Area Identification:*

Offshore wind developers requested that BOEM offer more acreage in the GOM east of Wind Energy Area (WEA) I for leasing. A GOMW-2 sale (combined with GOMW-1) would offer sufficient acreage for leasing to allow for robust development to help meet the State of Louisiana's goal of five GW of offshore wind. BOEM did not issue the GOMW-2 Preliminary WEAs for comment but, to maintain transparency, BOEM sought input from stakeholders through outreach. From June through August 2023, BOEM engaged with Federal partners, federally recognized Tribes, the affected States, as well as other stakeholders and ocean users, to solicit input and feedback on the 11 remaining WEA Options. On August 2, 2023, BOEM held a "round table" meeting with major stakeholders to gather input and answer questions on wind development in the GOM and have continued the outreach and engagement conversations to date. BOEM considered and incorporated comments received into the recommendation of these Final WEAs. New data was solicited and reviewed from stakeholders, and BOEM determined that the NCCOS Model, finalized in May 2022, remains the best available model for deconflicting space use considerations. Substantive comments underscored the need to minimize potential impacts to the fisheries industry, consider USCG and DoD missions and potential concerns, and provide sufficient WEA acreage for economic viability. Based on this input, BOEM removed from consideration the WEAs with mid to high levels of potential shrimping impacts and WEA Options with less than 90,000 acres, with the exception of WEA Option N. WEA Option N is being recommended as a final WEA based on potential economic viability due to its proximity to the existing Lake Charles lease area. Therefore, BOEM finalized WEAs J, K, L and N. WEA I, designated as a final WEA for GOMW-1, remains available for leasing.

*Environmental Reviews:* On January 11, 2021, 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 18 comments, which can be found at <https://www.regulations.gov> under Docket No. BOEM–2021–0092. In addition to the preparation of the Draft EA, BOEM completed consultations under the Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). On July 20, 2022, BOEM issued a press release soliciting comments on the Draft EA. During the comment period, BOEM held two virtual public meetings, one on August 9, 2022, and another on August 11, 2022. BOEM published the Final EA

and Finding of No Significant Impact (FONSI) on May 26, 2023. These documents can be found at <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. BOEM is also conducting environmental review, as well as consultation under the Coastal Zone Management Act (CZMA), prior to the GOMW–2 auction. BOEM will conduct additional environmental reviews upon receipt of a Lessee’s Construction and Operations Plan (COP) if one or more leases are issued and reach that stage of development. Offshore site assessment and site characterization activities proposed for the purpose of hydrogen, other than those covered in the GOM Wind Lease EA, will also be reviewed

at a site-specific and on a case-by-case basis by BOEM. Lessees should coordinate with the BOEM Gulf of Mexico Regional Office before developing a survey plan.

**II. Area Proposed for Leasing**

BOEM proposes four areas for the GOMW2 lease sale. The areas proposed for leasing will be auctioned as WEA I–1 Lease OCS–G37962, WEA I–2 Lease OCS–G37963, WEA J–1 Lease OCS–G37964, and WEA K–1 Lease OCS–G37965. BOEM chose these lease areas as the most viable options due to their ranking in the suitability modeling, their proximity to shore, and stakeholder feedback.

Lease area name	Lease area ID	Acres
WEA I–1 .....	OCS–G 37962 .....	102,500
WEA I–2 .....	OCS–G 37963 .....	96,786
WEA J–1 .....	OCS–G 37964 .....	108,230
WEA K–1 .....	OCS–G 37965 .....	102,544
<i>Total</i> .....	.....	410,060

Descriptions of the proposed Lease Areas can be found in Addendum “A” of the proposed leases, which BOEM has made available with this notice on its website at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.

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

*Potential Future Restrictions to Ensure Navigational Safety:*

*USCG Navigational Safety Measures:* Potential bidders should note that portions of the GOM may not be available for future development (*i.e.*, installation of wind energy facilities) because of navigational safety concerns. The USCG recommends that BOEM add a 2-nautical mile (3704 meter) buffer around the shipping fairways. BOEM may require additional mitigation measures at the COP stage when the lessee’s site-specific navigational safety risk assessment is available to inform BOEM’s decision-making.

*Vessel Transit Corridors:* Members of the fishing community have requested that offshore wind energy facilities be designed in a manner that, among other things, provides for safe transit to fishing grounds where relevant. The information currently available does not

indicate that transit corridors are warranted, but BOEM may nonetheless consider designating portions of a lease as transit corridors. Bidders should be aware that BOEM may include a lease stipulation in the FSN that addresses transit corridors, pending the outcome of additional discussions with ocean users and stakeholders as well as consideration of comments submitted in response to this PSN.

*Potential Future Restrictions to Mitigate Potential Conflicts with Department of Defense Activities:* Those interested in bidding should be aware of potential conflicts with existing uses of the OCS by DoD. BOEM coordinates with DoD throughout the leasing process.

i. *Air Surveillance and Radar:* A DoD assessment was conducted on the Call Area by the Military Aviation and Installation Assurance Siting Clearinghouse. The North American Aerospace Defense Command mission may be affected by the development of the Lease Area(s). Considering both the expected heights of offshore turbines and future cumulative wind turbine effects, adverse impacts are potentially mitigatable through Radar Adverse-impact Management (RAM). For projects where RAM mitigation is acceptable, BOEM will include the following in any sale notification and project approval conditions:

Lessee will notify NORAD 30–60 days ahead of project completion and, again,

when the project is complete and operational for RAM scheduling;

Lessee will contribute funds to DoD of no less than \$80,000 toward the execution of the RAM for each radar system affected; and

Curtailment for national security or defense purposes as described in the lease.

BOEM will require the lessee to enter into an agreement with the DoD to implement these conditions and mitigate any identified impacts. Sixth Generation Over the Horizon Radar is currently in development. Offshore wind turbines in the Gulf of Mexico may create adverse impacts to that system. BOEM will further coordinate with DoD and the lessee to deconflict potential impacts throughout the project review stage. Mitigation measures or terms and conditions of a plan approval may result from this coordination effort.

**III. Participation in the Proposed Lease Sale**

a. *Bidder Participation:* All entities who would like to participate in this proposed GOM lease sale must submit the required qualification materials to BOEM by the end of the 60-day comment period for this PSN.

b. *Affiliated Entities:* On the Bidder’s Financial Form (BFF), discussed below, eligible bidders must list any other eligible bidders with whom they are affiliated. For the purpose of identifying affiliated entities, a bidding entity is any individual, firm, corporation,

association, partnership, consortium, or joint venture (when established as a separate entity) that is participating in the same auction. BOEM considers bidding entities to be affiliated when:

i. They own or have common ownership of more than 50 percent of the voting securities, or instruments of ownership or other forms of ownership, of another bidding entity. Ownership of less than 10 percent of another bidding entity constitutes a presumption of non-control that BOEM may rebut.

ii. They own or have common ownership of 10 through 50 percent of the voting securities or instruments of ownership, or other forms of ownership, of another bidding entity, and BOEM determines that there is control upon consideration of factors including the following:

a. The extent to which there are common officers or directors.

b. With respect to the voting securities, or instruments of ownership or other forms of ownership: The percentage of ownership or common ownership, the relative percentage of ownership or common ownership compared to the percentage(s) of ownership by other bidding entities, if a bidding entity is the greatest single owner, or if there is an opposing voting bloc of greater ownership.

c. Shared ownership, operation, or day-to-day management of a lease, grant, or facility, as those terms are defined in BOEM's regulations at 30 CFR 585.112.

iii. They are both direct, or indirect, subsidiaries of the same parent company.

iv. If, with respect to any lease(s) offered in this auction, they have entered into an agreement prior to the auction regarding the shared ownership, operation, or day-to-day management of such lease.

v. Other evidence indicates the existence of power to exercise control, such as evidence that one bidding entity has power to exercise control over the other, or that multiple bidders collectively have the power to exercise control over another bidding entity or entities.

Affiliated entities are not permitted to compete against each other in the auction. Where two or more affiliated entities have qualified to bid in the auction, the affiliated entities must decide prior to the auction which one (if any) will participate in the auction. If two or more affiliated entities attempt to participate in the auction, BOEM will disqualify those bidders from the auction.

#### IV. Questions For Stakeholders

Stakeholders are encouraged to comment on any matters related to this proposed lease sale that are of interest or concern to them. However, BOEM has identified the following issues as particularly important, and we encourage commenters to address these issues specifically:

a. *Number, size, orientation, and location of the proposed Lease Areas:* In this PSN, BOEM proposes to offer four Lease Areas in the GOM. BOEM is seeking feedback on the proposed number, size, orientation, and location of the Lease Areas and welcomes comments on which Lease Areas, if any, should be prioritized for inclusion, or exclusion, from this lease sale.

*Considerations for the delineation of a Lease Area:* These delineation considerations may include comparable commercial viability and size; prevailing wind direction and minimal wake effects; maximized energy generating potential; mooring system anchor footprints and extents; possible setbacks at Lease Area boundaries; distance to shore, port infrastructure, and electrical grid interconnections; and fair return to the Federal Government pursuant to the Outer Continental Shelf Lands Act through competition for commercially viable lease areas. Additional comments are welcome regarding other considerations for delineating Lease Areas.

*Transit corridors:* BOEM welcomes comments on the potential need for including defined transit corridors within the proposed Lease Area and the degree to which such corridors might meet potential users' needs.

*Existing uses that may be affected by the development of the proposed Lease Areas:* If transit corridors are warranted, what would be the preferred placement and orientation (length, width, etc.) that would facilitate continuance of existing uses? BOEM asks commenters to submit technical and scientific data in support of their comments.

*Benefits to underserved communities:* Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government" states "the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality." Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad" states that in order "to secure an equitable economic future, the United States must ensure that

environmental and economic justice are key considerations in how we govern. That means investing and building a clean energy economy that creates well-paying union jobs, turning disadvantaged communities—historically marginalized and overburdened—into healthy, thriving communities, and undertaking robust actions to mitigate climate change while preparing for the impacts of climate change across rural, urban, and Tribal areas."

Consistent with its statutory and regulatory authorities, BOEM is considering lease stipulations to ensure that communities, particularly underserved communities, are considered and engaged early and often throughout the offshore wind energy development process; that potential impacts and benefits from lessees' projects are documented; and lessees' project proposals are informed by or altered to address those impacts and benefits.

BOEM invites comments on the appropriate mechanisms and evaluation metrics of these additional lease requirements. Commenters are encouraged to describe how these, or similar measures, would further the development of the proposed Lease Areas and the purposes of subsection 8(p) of the Outer Continental Shelf Lands Act (OCSLA). BOEM requests that commenters provide references to any studies that support their recommendations.

f. *Bidding Credit for Workforce Training or Supply Chain Development:* BOEM seeks comments on whether there are additional activities that should qualify for this bidding credit or are there other changes to the structure of the credit that will best aid in developing a sustained and robust U.S. offshore wind workforce and/or energy supply chain?

g. *Bidding Credit for Fisheries Compensatory Mitigation Fund:* BOEM seeks comment on its proposal for a fisheries compensatory mitigation fund and the associated bidding credit.

h. *Native American Tribes, ocean users, and stakeholder engagement:* In an effort to require early and regular lessee engagement with affected stakeholders, BOEM is proposing a lease stipulation that would require lessees to provide a semi-annual (*i.e.*, every 6 months) progress report that summarizes engagement with Native American Tribes and ocean users potentially affected by proposed activities on the lease or proposed project easement. The progress report would identify and describe: all existing users; the lessee's engagement with

those users; efforts to avoid, minimize, or mitigate any conflict between the existing users and the lessee; disproportionate impacts to environmental justice communities; and planned next steps to engage those users and address identified conflicts. The lease stipulation specifically would require coordination with the commercial fishing industry and consideration of potential conflicts prior to proposing a wind turbine layout in the COP. BOEM seeks comment on this concept generally, as well as comment on the contents and timing of such reports.

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

j. *Prescribed layouts*: BOEM seeks comment about whether BOEM should consider prescribing uniform and aligned turbine layouts in the Lease Area. Would the establishment of uniform turbine layouts negate the need for established transit corridors?

k. *Removal of Limits on the Number of Lease Areas per Bidder*: BOEM proposes to allow each qualified entity to bid on and potentially acquire as many Lease Areas as are offered in the GOMW-2 sale. In the Atlantic and Pacific OCS Regions, BOEM has often used a one-per-customer rule so that more lessees will be competing for State clean energy offtake procurements.

However, States adjacent to the GOM Lease Areas do not have statutory or enforceable offshore wind targets. Rather, offshore wind energy is more likely to be sold directly to large industrial customers or serve as the electricity source for hydrogen. Allowing lessees to win multiple lease areas may provide for economies of scale and more efficient development. BOEM is seeking feedback on the proposed unlimited eligibility on, and potential acquisition of, all four of the Lease Areas offered in the GOMW-2 sale.

l. *Industry standards for environmental protection*: Are there new industry standards (*e.g.*, new or improved technology, vessel design or operating procedures, etc.) for environmental protection during any phase of development that BOEM should consider?

m. *Production of Hydrogen on the Lease*: BOEM has made revisions to the lease to explicitly include the production of hydrogen or other energy products using wind turbine generators on the lease. BOEM welcomes feedback on these changes and whether additional changes are necessary to fully accommodate hydrogen production.

#### V. Proposed Lease Sale Deadlines and Milestones

This section describes the major deadlines and milestones in the auction process from publication of this PSN to execution of a lease issued pursuant to this sale.

a. The PSN Comment Period:

i. *Submit Comments*: The public is invited to submit comments during this 60-day period, which will expire on May 20, 2024. All comments received or postmarked during the comment period will be made available to the public and considered by BOEM prior to publication of the FSN.

*Public Auction Seminar*: BOEM will host a public seminar to discuss the lease sale process and the auction format. The time and place of the seminar will be announced by BOEM and published on the BOEM website at <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. No registration or RSVP is required to attend.

*Submit Qualifications Materials*: For prospective bidders who want to participate in this lease sale: All qualification materials must be received by BOEM by May 20, 2024. This includes materials sufficient to establish a company's legal, technical, and financial qualifications pursuant to 30 CFR 585.107-108. To qualify to participate in this lease sale,

qualification materials would need to be developed in accordance with the guidelines available at <https://www.boem.gov/Renewable-Energy-Qualification-Guidelines/>.

*Confidential Information*: If you wish to protect the confidentiality of your comments or qualification materials, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label privileged or confidential information with the caption "Contains Confidential Information" and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in Section XXI entitled "Protection of Privileged or Confidential Information." Information that is not labeled as privileged or confidential would be regarded by BOEM as suitable for public release.

b. End of PSN Comment Period to FSN Publication:

i. *Review Comments*: BOEM will review all comments submitted in response to the PSN during the comment period.

*Finalize Qualifications Reviews*: Prior to the publication of the FSN, BOEM will complete any outstanding reviews of bidder qualifications materials submitted during the PSN comment period. The final list of qualified bidders will be published in the FSN.

*Prepare the FSN*: BOEM will prepare the FSN by updating information contained in the PSN where appropriate.

*Publish FSN*: BOEM will publish the FSN in the **Federal Register** at least 30 days before the date of the sale.

c. *FSN Waiting Period*: During the period between FSN publication and the lease auction (*i.e.*, a minimum of 30 days), qualified bidders are required to take several steps to remain eligible to participate in the auction.

i. *Bidder's Financial Form*: Each bidder must submit a BFF to BOEM to participate in the auction. The BFF must include each bidder's conceptual strategy for each non-monetary bidding credit for which that bidder would like to be considered. BOEM must receive each bidder's BFF no later than the date listed in the FSN. BOEM may consider extensions to this deadline only if BOEM determines that the failure to timely submit a BFF was caused by events beyond the bidder's control. The proposed BFF can be downloaded at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.

Once BOEM has processed a bidder's BFF, the bidder is allowed to log into [pay.gov](https://pay.gov) and submit a bid deposit. For purposes of this auction, BOEM will not

consider BFFs submitted by bidders for previous lease sales. An original signed BFF may be mailed to BOEM's GOM Regional Office for certification. A signed copy of the form may be submitted in PDF format to [renewableenergy@boem.gov](mailto:renewableenergy@boem.gov). A faxed copy will not be accepted. Your BFF submission should be accompanied with a transmittal letter on company letterhead. The BFF must be executed by an authorized representative listed on the bidder's legal qualifications in the BFF, in accordance with 18 U.S.C. 1001 (fraud and false statements). Additional information regarding the BFF may be found below in Section IX entitled "Bidder's Financial Form."

**Bid Deposit:** Each qualified bidder must submit a bid deposit of \$2,000,000 for one (1) Lease Area. If the FSN allows bidders to bid for and potentially win more than one Lease Area, each qualified bidder must submit a bid deposit of \$2,000,000 per Lease Area. For example, if a qualified bidder wanted to bid on and potentially acquire four (4) Lease Areas, the bidder would need to submit a bid deposit of \$8,000,000. Further information about bid deposits can be found below in Section X "Bid Deposit."

**d. Notification of Eligibility for Non-Monetary Credits:** Prior to the Mock Auction, BOEM will notify each bidder of its determination of eligibility for bidding credits for each auction in which it is participating.

**e. Mock Auction:** BOEM will hold a Mock Auction that is open only to qualified bidders who have met the requirements and deadlines for auction participation, including submission of the bid deposit. The Mock Auction is intended to give bidders an opportunity to clarify auction rules, test the functionality of the auction software, and identify any potential issues that may arise during the auction. Final details of the Mock Auction will be provided in the FSN.

**f. The Auction:** BOEM, through its contractor, will hold an auction, as described in the FSN. The auction will take place no sooner than 30 days following the publication of the FSN in the **Federal Register**. The estimated timeframes described in this PSN assume that the auction will take place approximately 45 days after the publication of the FSN. Final dates will be included in the FSN. BOEM will announce the provisional winners of the lease sale after the auction ends.

**g. From the Auction to Lease Execution:**

**i. Refund Non-Winners:** Once the provisional winners have been announced, BOEM will provide the

non-winners with a written explanation of why they did not win and return their bid deposits.

**Department of Justice (DOJ) Review:** DOJ will have 30 days in which to conduct an antitrust review of the auction, pursuant to 43 U.S.C. 1337(c).

**Delivery of the Lease:** BOEM will send three lease copies to each winner, with instructions on how to execute the lease. Once the lease has been fully executed, a provisional winner becomes an auction winner. The first year's rent is due 45-calendar days after the winners receive the lease copies for execution.

**Return the Lease:** Within 10-business days of receiving the lease copies, the auction winners must post financial assurance, pay any outstanding balance of their winning bids (*i.e.*, winning monetary bid minus applicable bid deposit and value of the bidding credit, as applicable), and sign and return the three executed lease copies. The winners may request extensions and BOEM may grant such extensions if BOEM determines the delay was caused by events beyond the requesting winner's control, pursuant to 30 CFR 585.224(e).

**Execution of Lease:** Once BOEM has received the signed lease copies and verified that all other required materials have been received, BOEM will make a final determination regarding its issuance of the leases and will execute the leases, if appropriate.

## VI. Withdrawal of Blocks

BOEM reserves the right to withdraw all or portions of the Lease Areas prior to deciding whether to execute the leases with the winning bidders.

## VII. Lease Terms and Conditions

BOEM has made available the proposed terms, conditions, and stipulations for the commercial leases that would be offered through this proposed sale. BOEM reserves the right to require compliance with additional terms and conditions associated with the approval of a site assessment plan (SAP) and COP. The proposed leases are on BOEM's website at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. Each lease would include the following attachments:

- a. Addendum "A" ("Description of Leased Area and Lease Activities");
- b. Addendum "B" ("Lease Term and Financial Schedule");
- c. Addendum "C" ("Lease-Specific Terms, Conditions, and Stipulations"); and
- d. Addendum "D" ("Project Easement");

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

**Proposed Lease Stipulations:** BOEM proposes to add or revise the following lease stipulations or provisions from previous commercial leases:

**i. Fisheries Communication Plan:** A stipulation in the lease entitled "Commercial Fisheries," which would contain components of stipulations in prior commercial leases issued by BOEM, including a requirement for a Fisheries Communications Plan (FCP). BOEM is proposing to add elements to this stipulation in response to its extensive engagement with Tribal governments, the fishing industry, and governmental agencies. Major proposed revisions include: (i) identifying dock space and transit routes that would minimize space use conflicts and potential impacts to protected species; (ii) minimizing both congestion and the creation of obstacles that could result in an increased risk of entanglement; and (iii) to the extent practicable, prioritizing Federal and State climate change adaptation strategies for fisheries.

**Native American Tribes Communication Plan:** A revised NATCP requirement from the one included in previous commercial leases to require the Lessee to work with BOEM and the Gulf of Mexico to identify Tribes with cultural and/or historical ties to the Lease Areas and invite those Tribes to participate in the development of the NATCP. The NATCP would also include protocols for unanticipated discovery of any potential pre-contact archaeological resource(s).

**Protected Species:** A requirement for the Lessees to coordinate with BOEM, NMFS, and the U.S. Fish and Wildlife Service (USFWS) prior to designing and conducting biological surveys intended to support offshore renewable energy plans that could interact with protected species.

**Marine Mammal Protection Act Authorization(s).** If the Lessee is required to obtain an authorization pursuant to section 101(a)(5) of the Marine Mammal Protection Act prior to conducting survey activities in support of plan submittal, BOEM will require the Lessees to provide to the Lessor a copy of the authorization prior to commencing these activities.

**Site Characterization:** An updated requirement regarding survey plans and

pre-survey meetings (subsection 2.1 of Addendum “C” to the proposed lease). BOEM proposes to make the pre-survey meeting between the lessee and BOEM optional at BOEM’s discretion. BOEM also recommends removing the requirement for lessees to meet with BOEM prior to holding Tribal pre-survey meetings. This change would allow lessees more flexibility in scheduling Tribal pre-survey meetings, possibly holding them earlier and allowing greater opportunity for Tribal input.

*Siting Conditions:* A lease stipulation that outlines situations when lessees may not construct surface facilities.

*Research Access:* A stipulation that would make explicit BOEM’s reservation of the right to access the lease area for purposes of future research and other activities.

*Project Labor Agreements and Supply Chain:* Two lease stipulations that would encourage construction efficiency for projects and contribute towards establishing a domestic supply chain:

The first stipulation would require Lessees to make every reasonable effort to enter into a Project Labor Agreement (PLA) covering the construction stage of any project proposed for the Lease Areas. The PLA provisions for the construction of an offshore wind project would apply to all contractors.

The second stipulation would require the Lessee to establish a statement of goals in which the Lessee would describe its plans for contributing to the creation of a robust and resilient U.S.-based offshore wind industry supply chain. The Lessee would be required to provide regular progress updates on the achievement of those goals to BOEM, and BOEM would make those updates publicly available.

BOEM includes these stipulations because it is committed to a clean energy future, workforce development and safety, and the establishment of a durable domestic supply chain that can sustain the U.S. offshore wind energy industry and wants to advance this vision.

*Stakeholder and Ocean User Engagement Summary:* A requirement for the lessee to include a stakeholder and ocean user engagement summary as part of their progress reporting

requirements (see subsection 3.1 of Addendum “C” of the lease). This summary would include a description of all existing users, engagement activities with those users during the reporting period, and a description of efforts to minimize any conflict between the existing users and the lessee.

*Confirmed Munitions of Concern (MEC)/Unexploded Ordnance (UXO) Notification:* A stipulation in the lease that would require notification for confirmed MEC/UXO. Under this stipulation, the lessee would be required to notify BOEM, BSEE, and relevant agency representatives when a confirmed discovery is made.

### VIII. Lease Financial Terms and Conditions

This section provides an overview of the required annual payments and financial assurances under the lease. Please see the proposed lease for more detailed information, including any changes from past practices.

a. *Rent:* Pursuant to 30 CFR 585.224(b) and 585.503, the first year’s rent payment of \$3 per acre is due within 45-calendar days after the lessee receives the lease copies from BOEM. Thereafter, annual rent payments are due on the anniversary of the effective date of the lease (the “Lease Anniversary”). Once commercial operations under the lease begin, BOEM will charge rent only for the portions of the Lease Area remaining undeveloped (*i.e.*, non-generating acreage). For example, for the 102,557 acres Lease Area of (OCS-G 0XXX), the rent payment would be \$307,671 per year until commercial operations begin.

If the lessee submits an application for relinquishment of a portion of its leased area within the first 45-calendar days after receiving the lease copies from BOEM and BOEM approves that application, no rent payment would be due on the relinquished portion of the Lease Area. Later relinquishments of any portion of the lease area would reduce the lessee’s rent payments starting in the year following BOEM’s approval of the relinquishment.

The lessee also must pay rent for any project easement associated with the lease. Rent commences on the date that BOEM approves the COP that describes the project easement (or any

modification of such COP that affects the easement acreage), as outlined in 30 CFR 585.507. If the COP revision results in increased easement acreage, additional rent would be required at the time the COP revision is approved. Annual rent for a project easement is the greater of \$5 per acre per year or \$450 per year.

*Operating Fee:* For purposes of calculating the initial annual operating fee payment under 30 CFR 585.506, BOEM applies an operating fee rate to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first 12 months of operations. This initial payment will be prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment will be due within 90 days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments will be due on or before the Lease Anniversary. If offshore wind energy is used to generate hydrogen or other energy products, the annual operating fee for electricity will continue to be calculated as provided in the lease as a proxy for the market value of hydrogen. Because there is currently a limited market for commercial hydrogen, the operating fee charged on the electricity generation will serve as a proxy for the energy products.

The subsequent annual operating fee payments will be calculated by multiplying the operating fee rate by the imputed wholesale market value of the projected annual electric power production. For purposes of this calculation, the imputed market value will be the product of the project’s annual nameplate capacity, the total number of hours in the year (8,760), the capacity factor, and the annual average price of electricity derived from a regional wholesale power price index. For example, the annual operating fee for a 976 megawatt (MW) wind facility operating at a 30 percent capacity (*i.e.*, capacity factor of 0.3) with a regional wholesale power price of \$40 per megawatt hour (MWh) and an operating fee rate of 0.02 would be calculated as follows:

$$\text{Annual Operating Fee} = 976 \text{ MW} \times 8,760 \frac{\text{hrs}}{\text{year}} \times 0.3 \times \frac{\$40}{\text{MWh}} \text{ Power Price} \times 0.02 =$$

\$2,051,942

i. *Operating Fee Rate*: The operating fee rate is the share of the imputed wholesale market value of the projected annual electric power production due to ONRR as an annual operating fee. For the Lease Areas, BOEM proposes to set the fee rate at 0.02 (2 percent) for the entire life of commercial operations.

*Nameplate Capacity*: Nameplate capacity is the maximum rated electric output, expressed in MW, which the turbines of the wind facility under commercial operations can produce at their rated wind speed as designated by the turbine's manufacturer.

*Capacity Factor*: BOEM proposes to set the capacity factor at 0.3 (i.e., 30 percent) for the year in which the commercial operations date occurs and for the first 6 years of commercial operations on the lease. At the end of the sixth year, BOEM may adjust the capacity factor to reflect the performance over the previous 5 years based upon the actual metered electricity generation at the delivery point to the electrical grid or where the electricity is used to generate hydrogen or other energy products. BOEM may make similar adjustments to the capacity factor once every 5 years thereafter.

*Wholesale Power Price Index*: Under 30 CFR 585.506(c)(2)(i), the wholesale power price, expressed in dollars per MWh, is determined at the time each annual operating fee payment is due. For the leases offered in this sale, BOEM proposes to use the ERCOT (Texas Coast Region) average price per MW from the Enerfax power prices dataset within Hitachi's ABB Velocity Suite. A similar price dataset can also be used and may be posted by BOEM for reference.

*Financial Assurance*: Within 10-business days after receiving the lease copies and pursuant to 30 CFR 585.515-.516, the provisional winner would be required to provide an initial lease-specific bond or other BOEM-approved financial assurance instrument in the amount of \$100,000. BOEM encourages the provisional winner to discuss financial assurance requirements with BOEM as soon as possible after the auction has concluded.

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

The financial terms described above can be found in Addendum "B" of the lease, which is available at: [\[www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities\]\(https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities\).](https://</a></p></div><div data-bbox=)

#### IX. Bidder's Financial Form

Each bidder would be required to provide the information required in the BFF referenced in this PSN. A copy of the proposed form is available at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. BOEM recommends that each bidder designate an email address in its BFF that the bidder would then use to create an account in *pay.gov* (if it has not already done so). BOEM will not consider previously submitted BFFs for previous lease sales to satisfy the requirements of this auction. BOEM may consider BFFs submitted after the deadline set in the FSN if BOEM determines that the failure to timely submit the BFF was caused by events beyond the bidder's control. The BFF is required to be executed by an authorized representative listed in the qualification package on file with BOEM.

#### X. Bid Deposit

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

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

If BOEM offers a lease to a provisional winner and that bidder fails to timely return the signed lease, establish financial assurance, or pay the balance of its bid, BOEM would retain the bidder's \$2,000,000 bid deposit for the Lease Area. In such a circumstance, BOEM reserves the right to offer a lease for that Lease Area to the next highest bidder as determined by BOEM.

#### XI. Minimum Bid

The minimum bid is the lowest bid amount per acre that BOEM will accept as a winning bid, and it is the amount at which BOEM will start the bidding in the auction. BOEM proposes a minimum bid amount of \$50.00 per acre for this lease sale.

#### XII. Auction Procedures

a. *Multiple-Factor Bidding Auction*: As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM proposes to use a multiple-factor auction format for this lease sale. Under BOEM's proposal, the bidding system for this lease sale would be a multiple-factor combination of monetary and non-monetary factors. The bid made by a particular bidder in each round would represent the sum of the monetary factor (cash bid) and the value of any non-monetary factors in the form of bidding credits. BOEM proposes to start the auction using the minimum bid price for the Lease Areas and to increase these prices incrementally until only one bidder remains bidding on each Lease Area in the auction.

BOEM is proposing to grant bidding credits to bidders that commit to one or both of the following:

i. Supporting workforce training programs for the offshore wind industry or developing a domestic supply chain for the offshore wind industry, or a combination of both; or

ii. Establishing and contributing to a fisheries compensatory mitigation fund or contributing to an existing fund to mitigate potential negative impacts to commercial and for-hire recreational fisheries caused by OCS offshore wind development in the Gulf of Mexico.

These bidding credits are intended to:

i. Enhance, through training, the offshore wind workforce and/or enhance the establishment of a domestic supply chain for offshore wind manufacturing, assembly, or services, both of which will contribute to the expeditious and orderly development of offshore wind resources on the OCS;

ii. Support the expeditious and orderly development of OCS resources by mitigating potential direct impacts from proposed projects and encouraging the investment in infrastructure germane to the offshore wind industry; and

iii. Minimize potential economic effects on commercial fisheries impacted by potential offshore wind development, as cooperation with commercial fisheries impacted by OCS operations will enable development of the Lease Area to advance.

*Changes to Auction Rules*: BOEM will be employing new auction software for sales held in 2024. The auction format remains an ascending clock auction with multiple-factor bidding. Five primary changes have been made to the ascending clock auction rules in the new software.

i. If a bidder decides to bid on a different Lease Area in a subsequent



round of the auction, it may submit a bid for the Lease Area it bid on in the previous round and, simultaneously, submit a bid for another Lease Area. This allows a bidder the option to switch to another Lease Area if the price of the first Lease Area exceeds the specified bid price.

ii. Provisional winners will no longer be determined using a two-step process. The auction rules are implemented in a way such that, when the auction concludes, the bidder who remains on a Lease Area after the final round becomes its provisional winner. There

will be no additional processing to determine whether any other Lease Areas can be awarded to other bidders.

iii. The auction will use a “second price” rule. A given Lease Area will be won by the bidder that submitted the highest bid amount for the Lease Area, but the winning bidder will pay the highest bid amount at which there was competition (*i.e.*, the “second price”).

iv. If the FSN allows bidders to bid for and potentially acquire two or more Lease Areas, any bid for two or more Lease Areas will be treated as independent bids for those Lease Areas, rather than as a package bid.

v. Each bidder’s bidding credit will be expressed directly as a percentage of the final price for the lease.

All potential bidders should review the complete Auction Procedures for Offshore Wind Lease Sales (Version 1) located at: <https://www.boem.gov/renewable-energy/lease-and-grant-information>.

*The Auction:* Using an online bidding system to host the auction, BOEM would start the bidding for Leases OCS–G 37962 through 37965 as described below.

Lease area name	Lease area ID	Acres	Minimum bid
Lease I–1	OCS–G 37962	102,500	\$5,125,000
Lease I–2	OCS–G 37963	96,786	4,839,300
Lease J–1	OCS–G 37964	108,230	5,411,500
Lease K–1	OCS–G 37965	102,544	5,127,200

BOEM is proposing to allow each qualified bidder to bid for and potentially acquire as many Lease Areas as are offered in the GOMW–2 sale. The possible alternatives to the proposed unlimited eligibility would be a specified limit on the number of Lease Areas in each region that a bidder can bid for and potentially win, or a specified overall limit on the number of Lease Areas in the GOMW–2 sale that a bidder can bid for and potentially win.

The auction will be conducted in a series of rounds. Before each round, the auction system will announce the prices for each Lease Area offered in the auction. In Round 1, there is a single price for each Lease Area equal to the minimum bid price (also known as the ‘opening price’ or ‘clock price of Round 1’). Each bidder can bid, at the opening prices, for as many Lease Areas as allowed by the FSN and the bidder’s bid deposit. After Round 1, the bidder’s processed demand is one for each Lease Area for which the bidder bid in Round 1. The bidder’s eligibility for Round 2 equals the number of Lease Areas for which the bidder bid in Round 1.

Starting in Round 2, each Lease Area is assigned a range of prices for the round. The start-of-round price is the lowest price in the range, and the clock price is the highest price in the range. A bidder still eligible to bid after the previous round can either continue bidding at the new round’s clock price(s) for the same Lease Area(s) for which the bidder’s processed demand is one or submit bid(s) to reduce demand for one (or more) Lease Area(s) at any price(s) in the range(s) for that round. A bid to reduce demand at some price indicates that the bidder is not willing

to acquire that Lease Area at a price exceeding the specified bid price. A bidder that bids to reduce demand for Lease Areas can optionally bid on up to the same number of other Lease Areas.

If an eligible bidder does not place a bid during the round for the Lease Area for which the bidder’s processed demand is one, the auction system will consider this a request to reduce demand for that Lease Area at the round’s start-of-round price.<sup>2</sup> That bidder can nonetheless win that Lease Area if it is the last remaining bidder for that Lease Area.

After each round, the auction system processes the bids and determines each bidder’s processed demand for each Lease Area and the posted prices for the Lease Areas. The bidder’s eligibility for the next round would equal the number of Lease Areas for which the bidder had a processed demand of one. If, after any round, a bidder’s processed demand is zero for every Lease Area, the bidder’s eligibility drops to zero and the bidder can no longer bid in the auction. The posted price is the price determined for each Lease Area after processing of all bids for a round. If only one bidder remains on a Lease Area, the posted price reflects the “second price” (*i.e.*, the highest price at which there was competition for the Lease Area).<sup>3</sup>

The posted price for a Lease Area after each round becomes the start-of-round

price for that Lease Area in the next round.

If, after the bids for the round have been processed, there is no Lease Area with excess demand, the auction will end. When this occurs, each bidder with a processed demand of one for a Lease Area will become the provisional winner for that Lease Area. Otherwise, the auction will continue with a new round in which the start-of-round price for each Lease Area equals the posted price of the previous round.

The increment by which the clock price exceeds the start-of-round price will be determined based on several factors including, but not necessarily limited to, the expected time needed to conduct the auction and the number of rounds that have already occurred. BOEM reserves the right to increase or decrease the increment as it deems appropriate.

The provisional winner of each Lease Area will pay the final posted price (less any applicable bidding credit), or risk forfeiting its bid deposit. A provisional winner will be disqualified if it is subsequently found to have violated auction rules or BOEM regulations, or otherwise engaged in conduct detrimental to the integrity of the competitive auction. If a bidder submits a bid that BOEM determines to be a provisionally winning bid, the bidder must sign the applicable lease documents, post financial assurance, and submit the outstanding balance (if any) of its winning bid (*i.e.*, winning monetary bid minus the applicable bid deposit and the value of bidding credits, as applicable) within 10-business days of receiving the lease copies, pursuant to 30 CFR 585.224. BOEM reserves the

<sup>2</sup> When the round ends and the bidder still has not placed a bid, the system will process the bid as if the bidder is asking to leave that lease area at any price above the start-of-round price for that lease area that it previously bid on.

<sup>3</sup> The Auction Procedures for Offshore Wind Lease Sales provides details on how bids are prioritized and processed.

right to not issue the lease to the provisionally winning bidder if that bidder fails to: timely execute three copies of the lease and return them to BOEM, timely post adequate financial assurance, timely pay the balance of its winning bid, or otherwise comply with applicable regulations or the terms of the FSN. In any of these cases, the bidder will forfeit its bid deposit and BOEM reserves the right to offer a lease to the next highest eligible bidder as determined by BOEM.

BOEM will publish the names of the provisional winners of the Lease Areas and the associated prices shortly after the conclusion of the sale. Full bid results, including round-by-round results of the entire sale, will be published on BOEM's website after a review of the results and announcement of the provisional winner.

Additional Information Regarding the Auction Format:

*i. Authorized Individuals and Bidder Authentication:* An entity that is eligible to participate in the auction will identify on its BFF up to three individuals who will be authorized to bid on behalf of the company, including their names, business telephone numbers, and email addresses. All individuals will log into the auction system using *login.gov*. Prior to the auction, all the individuals listed on the BFF form must obtain a Fast Identify Online (FIDO) compliant security key,<sup>4</sup> and must register this security key on *login.gov* using the same email address that was listed in the BFF. The *login.gov* registration, together with the FIDO-compliant security key, will enable the individual to log into the auction website. BOEM will provide information on this process on its website.

After BOEM has processed the bid deposits, the auction contractor will send an email to the authorized individuals, inviting them to practice logging into the auction website on a specific day in advance of the mock auction. The *login.gov* login process, along with the authentication process for the auction helpdesk, will also be tested during the mock auction. If an eligible bidder fails to submit a bid deposit or does not participate in the first round of the auction, BOEM will

deactivate that bidder's login information.

*ii. Timing of Auction:* The FSN will provide specific information regarding when bidders can enter the auction system and when the auction will start.

*iii. Messaging Service:* BOEM and the auction contractors will use the auction platform messaging service to keep bidders informed on issues of interest during the auction. For example, BOEM could change the schedule at any time, including during the auction. If BOEM changes the schedule during an auction, it will use the messaging feature to notify bidders that a revision has been made and will direct bidders to the relevant page. BOEM will also use the messaging system for other updates during the auction.

*iv. Bidding Rounds:* Bidders are allowed to place bids or to change their bids at any time during the bidding round. At the top of the bidding page, a countdown clock shows how much time remains in each round. Bidders will have until the end of the round to place bids. Bidders should do so according to the procedures described in the FSN and the Auction Procedures for Offshore Wind Lease Sales.

Information about the round results will be made available only after the round has closed, so there is no strategic advantage to placing bids early or late in the round. The Auction Procedures for Offshore Wind Lease Sales elaborate on the auction procedures described in this PSN. In the event of any inconsistency between the Auction Procedures for Offshore Wind Lease Sales, the Bidder Manual, and the FSN, the FSN is controlling.

*Alternate Bidding Procedures:* Redundancy is the most effective way to mitigate technical and human issues during an auction. BOEM strongly recommends that bidders consider authorizing more than one individual to bid in the auction—and confirming during the mock auction that each individual is able to access the auction system. A mobile hotspot or other form of wireless access is helpful in case a company's main internet connection should fail. As a last resort, an authorized individual facing technical issues may request to submit its bid by telephone. In order to be authorized to place a telephone bid, an authorized individual must call the help desk number listed in the auction manual before the end of the round. BOEM will authenticate the caller's identity, including requiring the caller to provide a code from the software token. The caller must also explain the reasons why a telephone bid needs to be submitted. BOEM may, in its sole discretion,

permit or refuse to accept a request for the placement of a bid using this alternate telephonic bidding procedure. The auction help desk requires codes from the Google Authenticator application (app) as part of its procedure for identifying individuals who call for assistance. *Prior to the auction*, all individuals listed on the BFF should download the Google Authenticator™ mobile app<sup>5</sup> onto their smartphone or tablet.<sup>6</sup> The first time the individual logs into the auction system, the system will provide a QR token to be read into the Google Authenticator app. This token is unique to the individual and enables the Google Authenticator app to generate time-sensitive codes that will be recognized by the auction system. When an individual calls the auction help desk, the current code from the app must be provided to the help desk representative as part of the user authentication process. BOEM will provide information on this process on its website.

*17.0 Percent Bidding Credit for Workforce Training or Supply Chain Development or a Combination of Both:* This proposed bidding credit would allow a bidder to receive a credit of 17.0 percent of the final posted price of the Lease Area in exchange for a commitment to make a qualifying monetary contribution ("Contribution"), in the same amount as the bidding credit received, to programs or initiatives that support workforce training programs for the U.S. offshore wind industry or development of a U.S. domestic supply chain for the offshore wind industry, or both, as described in the BFF Addendum and the lease. To qualify for this credit, the bidder must commit to the bidding credit requirements on the BFF and submit a conceptual strategy as described in the BFF Addendum.

*i.* As proposed, the Contribution to workforce training must result in a better trained and/or larger domestic offshore wind workforce that would provide for more efficient operations via increasing the supply of fully trained personnel. Training of existing lessee employees, lessee contractors, or employees of affiliated entities would not qualify.

*ii.* The Contribution to domestic supply chain development must result in overall benefits to the U.S. offshore wind supply chain available to all potential purchasers of offshore wind

<sup>4</sup> FIDO-keys are produced by many manufacturers, such as Yubico and Google. They are widely available and can easily be purchased from Amazon, Best Buy, Walmart, or any other seller of electronics. The latest generation of the FIDO standard is FIDO2, and you should obtain the key compliant with the FIDO2 authentication standard. Depending on the computer you use, you might need to obtain an adapter as FIDO-keys require a USB port.

<sup>5</sup> Google Authenticator must be installed from either the Apple App Store or the Google Play Store.

<sup>6</sup> Installing the app is only required if the Google Authenticator is not already installed on the smartphone or tablet.

services, components, or subassemblies, not solely the lessee's project; and either (i) the demonstrable development of new domestic capacity (including vessels) or the demonstrable buildout of existing capacity, or (ii) an improved offshore wind domestic supply chain by reducing the upfront capital or certification cost for manufacturing offshore wind components, including the building of facilities, the purchasing of capital equipment, and the certifying of existing manufacturing facilities.

iii. Contributions cannot be used to satisfy private cost shares for any Federal tax or other incentive programs where cost sharing is a requirement. No portion of the Contribution may be used to meet the requirements of any other bidding credits for which the lessee qualifies.

iv. Bidders interested in obtaining a bidding credit could choose to contribute to workforce training programs, domestic supply chain initiatives, or a combination of both. The Conceptual Strategy must describe verifiable actions that the lessee will take that would allow BOEM to confirm compliance when the documentation for satisfying the bidding credit is submitted. The Contribution must be tendered in full, and the lessee must provide documentation evidencing it has made the Contribution and complied with applicable requirements, no later than the date the lessee submits its first Facility Design Report (FDR).

v. As proposed, Contributions to workforce training would need to promote and support one or more of the following purposes: (i) Union apprenticeships, labor management training partnerships, stipends for workforce training, or other technical training programs or institutions focused on providing skills necessary for the planning, design, construction, operation, maintenance, or decommissioning of offshore wind energy projects in the United States; (ii) Maritime training necessary for the crewing of vessels to be used for the construction, servicing, and/or decommissioning of wind energy projects in the United States; (iii) Training workers in skills or techniques necessary to manufacture or assemble offshore wind components, subcomponents or subassemblies. Examples of areas involving these skills and techniques include welding; wind energy technology; hydraulic maintenance; braking systems; mechanical systems, including blade inspection and maintenance; or computers and programmable logic control systems; (iv) Tribal offshore wind workforce development programs

or training for employees of an Indian Economic Enterprise in skills necessary in the offshore wind industry; or (v) Training in any other job skills that the lessee can demonstrate are necessary for the planning, design, construction, operation, maintenance, or decommissioning of offshore wind energy projects in the United States.

vi. As proposed, Contributions to domestic supply chain development must promote and support one or more of the following: (i) Development of a domestic supply chain for the offshore wind industry, including manufacturing of components and sub-assemblies and the expansion of related services; (ii) Domestic Tier 2 and Tier 3 offshore wind component suppliers and domestic Tier 1 supply chain efforts, including quay-side fabrication;<sup>7</sup> (iii) Technical assistance grants to help U.S. manufacturers re-tool or certify (e.g., ISO-9001) for offshore wind manufacturing; (iv) Development of Jones Act-compliant vessels for the construction, servicing, and/or decommissioning of wind energy projects in the United States; (v) Purchase and installation of lift cranes or other equipment capable of lifting or moving foundations, towers, and nacelles quayside, or lift cranes on vessels with these capabilities; (vi) Port infrastructure directly related to offshore wind component manufacturing or assembly of major offshore wind facility components; (vii) Establishing a new or existing bonding support reserve or revolving fund available to all businesses providing goods and services to offshore wind energy companies, including disadvantaged businesses and/or Indian Economic Enterprises; or (viii) Other supply chain development efforts that the lessee can demonstrate advance the manufacturing of offshore wind components or subassemblies or the provision of offshore wind services, in the United States.

vii. *Documentation:* If a lease is issued pursuant to a winning bid that includes a bidding credit for workforce training or supply chain development, the lessee would be required to provide documentation showing that the lessee has met the financial commitment before the lessee submits the first FDR for the lease. The documentation must allow BOEM to objectively verify the

<sup>7</sup> Tier 1 denotes the primary offshore wind components such as the blades, nacelles, towers, foundations, and cables. Tier 2 subassemblies are the systems that have a specific function for a Tier 1 component. Tier 3 subcomponents are commonly available items that are combined into Tier 2 subassemblies, such as motors, bolts, and gears.

amount of the Contribution and the beneficiary(ies) of the Contribution.

At a minimum, the documentation would need to include: all written agreements between the lessee and beneficiary(ies) of the Contribution, which must detail the amount of the Contribution(s) and how it will be used by the beneficiary(ies) of the Contribution(s) to satisfy the goals of the bidding credit for which the Contribution was made; all receipts documenting the amount, date, financial institution, and the account and owner of the account to which the Contribution was made; and sworn statements by the entity that made the Contribution and the beneficiary(ies) of the Contribution attesting that all information provided in the above documentation is true and accurate. The documentation would need to describe how the funded initiative or program has advanced, or is expected to advance, U.S. offshore wind workforce training or supply chain development. The documentation must also provide qualitative and/or quantitative information that includes the estimated number of trainees or jobs supported, or the estimated leveraged supply chain investment resulting or expected to result from the Contribution. The documentation would need to contain any information called for in the Conceptual Strategy that the lessee submitted with its BFF and to allow BOEM to objectively verify (i) the amount of the Contribution and the beneficiary(ies) of the Contribution, and (ii) compliance with the bidding credit criteria provided in Addendum "C" of the lease. If the lessee's implementation of its Conceptual Strategy changes due to market needs or other factors, the lessee would need to explain the changed approach. BOEM would reserve all rights to determine that the bidding credit has not been satisfied if changes from the lessee's Conceptual Strategy result in the lessee not meeting the criteria for the bidding credit described in Addendum "C" of the lease.

viii. *Enforcement:* The commitment for the bidding credit would be made in the BFF and would be included in a lease addendum that would bind the lessee and all future assignees of the lease. If BOEM were to determine that a lessee or assignee had failed to satisfy the requirements of the bidding credit, or if a lessee were to relinquish or otherwise fail to develop the lease by the tenth anniversary date of lease issuance, the amount corresponding to the bidding credit awarded would be immediately due and payable to the Office of Natural Resources Revenue

(ONRR) with interest from the lease Effective Date. The interest rate would be the underpayment interest rate identified by ONRR. The lessee would not be required to pay said amount if the lessee satisfied its bidding credit requirements but failed to develop the lease by the tenth Lease Anniversary. BOEM could, at its sole discretion, extend the documentation deadline beyond the first FDR submission or extend the lease development deadline beyond the 10-year timeframe.

**8.0 Percent Bidding Credit for Fisheries Compensatory Mitigation Fund:** The second bidding credit proposed would allow a bidder to receive a credit of 8.0 percent of the final posted price of the Lease Area in exchange for a commitment to establish and contribute to a fisheries compensatory mitigation fund, or to contribute to a similar existing fund, to compensate for potential negative impacts to commercial and for-hire recreational fisheries. The term “commercial fisheries” refers to commercial and processing businesses engaged in the act of catching and marketing fish and shellfish for sale from the Gulf of Mexico. The term “for-hire recreational fisheries” refers to charter and head-boat fishing operations involving vessels-for-hire engaged in recreational fishing in the Gulf of Mexico that are hired for a charter fee by an individual or group of individuals for the exclusive use of that individual or group of individuals. Lessees are encouraged to contribute to a regional fund which would provide financial compensation for economic loss from offshore wind development in the Gulf of Mexico. At a minimum, the compensation must address the following:

- Gear loss or damage; and
- Lost fishing income in Gulf of Mexico wind energy Lease Areas.

The fisheries compensatory mitigation fund would assist commercial and for-hire recreational fisheries directly impacted by income or gear losses due to offshore wind activities on offshore wind leases or easements and is intended to address the impacts identified in BOEM’s environmental and project reviews. The compensatory mitigation would be required to cover impacts that result directly from the preconstruction, construction, operations and decommissioning of an offshore wind project being developed on Gulf of Mexico wind energy leases or easements. The fund would be required to be established, and the Contribution made before the lessee submits the lease’s first FDR or before the fifth Lease Anniversary, whichever is sooner. To

qualify for this credit, the bidder would be required to commit to the bidding credit requirements on the BFF and submit a conceptual strategy as described in the BFF Addendum.

(1) Bidders committing to use the fisheries compensatory mitigation fund bidding credit must submit their Conceptual Strategy along with their BFF, further described below and in the BFF Addendum. The Conceptual Strategy would describe the actions that the lessee intends to take that would allow BOEM to verify compliance when the lessee seeks to demonstrate satisfaction of the requirements for the bidding credit. The lessee would be required to provide documentation showing that the lessee has met the commitment and complied with the applicable bidding credit requirements before the lessee submits the lease’s first FDR or before the fifth Lease Anniversary, whichever is sooner.

(2) As proposed, gear loss, damage, and fishing income loss claims should be prioritized at each phase of offshore wind project development, including impacts from surveys conducted before the establishment of the fund. BOEM encourages lessees to coordinate with other lessees to establish or contribute to a regional fund. A regional fund should be flexible enough to incorporate future contributions from future lease auctions and actuarially sound enough to recognize the multi-decade life of offshore wind projects in the Gulf of Mexico. While the fund’s first priority is to compensate for gear loss or damage and income loss, funds that have been determined to be excess based on an actuarial accounting may be used to:

- a. Promote participation of fishers and fishing communities in the project development process or other programs that better enable the fishing and offshore wind industries to co-exist;
- b. Offset the cost of gear upgrades and transitions for operating within a wind facility.

Any fund established or selected by the lessee to meet this bidding credit requirement would be required to include a process for evaluating the actuarial status of funds at least every 5 years and publicly reporting information on fund disbursement and administrative costs at least annually.

(3) The fisheries compensatory mitigation fund would be required to be independently managed by a third party and designed with fiduciary governance and strong internal controls while minimizing administrative expenses. The Contribution may be used for fund startup costs, but the Fund should minimize costs by leveraging existing processes, procedures, and information

from BOEM Fisheries Mitigation Guidance, the Eleven Atlantic States’ Fisheries Mitigation Project, or other sources.

(4) *Documentation:* As proposed, if a lease is awarded pursuant to a winning bid that includes a fisheries compensatory mitigation fund bidding credit, the lessee would be required to provide written documentation to BOEM that demonstrates that it completed the fund Contribution before it submits the lease’s first FDR or before the fifth Lease Anniversary, whichever is sooner. The documentation would be required to enable BOEM to objectively verify the Contribution has met all applicable requirements as outlined in Addendum “C” of the lease. At a minimum, this documentation would be required to include:

- a. the procedures established to compensate for gear loss or damage resulting from all phases of the project development on the Lease Area (pre-construction, construction, operation, and decommissioning);

- b. the fisheries compensatory mitigation fund charter, including the governance structure, audit and public reporting procedures, and standards for paying compensatory mitigation for impacts to fishers from development on wind energy Lease Areas in the Gulf of Mexico;

- c. all receipts documenting the amount, date, financial institution, and the account and owner of the account to which the Contribution was made; and

- d. sworn statements by the entity that made the Contribution, attesting to:

- i. the amount and date(s) of the Contribution;
- ii. that the Contribution is being (or will be) used in accordance with the bidding credit requirements in the lease; and

- iii. that all information provided is true and accurate.

The documentation would be required to contain any information specified in the Conceptual Strategy that was submitted with the BFF. If the lessee’s implementation of its Conceptual Strategy changes due to market needs or other factors, the lessee would need to explain this change. BOEM reserves the right to determine that the bidding credit has not been satisfied if changes from the lessee’s Conceptual Strategy result in the lessee not meeting the criteria for the bidding credit described in Addendum “C” of the lease.

(5) *Enforcement:* The commitment to the fisheries compensatory mitigation fund bidding credit will be made in the BFF. It will be included in Addendum “C” of the lease and will bind the lessee

and all future assignees of the lease. If BOEM were to determine that a lessee or assignee had failed to satisfy the commitment at the time the first FDR is submitted, or by the fifth Lease Anniversary, whichever is sooner, the amount corresponding to the bidding credit awarded would be immediately due and payable to ONRR with interest from the lease effective date. The interest rate would be the underpayment interest rate identified by ONRR. The lessee would not be required to pay said amount if the lessee satisfied its bidding credit requirements by the time the first FDR is submitted, or the fifth Lease Anniversary, whichever is sooner. BOEM may, at its sole discretion, extend the documentation deadline beyond the first FDR or beyond the 5-year timeframe.

### XIII. Rejection or Non-Acceptance of Bids

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

### XIV. Anti-Competitive Review

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

Anti-competitive behavior determinations are fact specific. However, such behavior may manifest itself in several different ways, including, but not limited to:

1. An express or tacit agreement among bidders not to bid in an auction, or to bid a particular price;
2. An agreement among bidders not to bid against each other; or
3. Other agreements among bidders that have the potential to affect the final auction price.

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

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

### XV. Process for Issuing the Lease

Once all post-auction reviews have been completed to BOEM’s satisfaction, BOEM will issue three unsigned copies of the lease to the provisional winner. Within 10-business days after receiving the lease copies, the provisional winner must:

1. Execute and return the lease copies on the bidder’s behalf;
2. File financial assurance, as required under 30 CFR 585.515–537; and
3. Pay by electronic funds transfer (EFT) the balance (if any) of the winning bid (winning monetary bid minus the applicable bid deposit). BOEM would require bidders to use EFT procedures (not *pay.gov*, the website bidders used to submit bid deposits) for payment of the balance of the winning bid, following the detailed instructions contained in the “Instructions for Making Electronic Payments” available on BOEM’s website at: <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/EFT-Payment-Instructions.pdf>.

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

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

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

Subsequent annual rent payments must be made following the detailed instructions contained in the “Instructions for Making Electronic Payments,” available on BOEM’s website at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>.

### XVI. Non-Procurement Debarment and Suspension Regulations

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

### XVII. Final Sale Notice

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

### XVIII. Changes to Auction Details

BOEM has the discretion to change any auction detail specified in the FSN, including the date and time, if events outside BOEM’s control have been found to interfere with a fair and proper lease sale. Such events may include, but are not limited to, natural disasters (e.g., earthquakes, hurricanes, floods, and blizzards), wars, riots, act of terrorism, fire, strikes, civil disorder, Federal Government shutdowns, cyberattacks against relevant information systems, or other events of a similar nature. In case of such events, BOEM would notify all qualified bidders via email, phone, and BOEM’s website at: <https://www.boem.gov/renewable-energy/state-activities/gulf-mexico-activities>. Bidders should call BOEM’s Auction Manager at 703–787–1121 if they have concerns.

### XIX. Appeals

The appeals and reconsideration procedures are provided in BOEM’s regulations at 30 CFR 585.225 and 585.118(c). BOEM’s decision on a bid is the final action of the Department, except that an unsuccessful bidder may apply for reconsideration by the Director under 30 CFR 585.225 as follows:

If BOEM rejects your bid, BOEM will provide a written statement of the reasons and will refund any money deposited with your bid, without interest.

You may ask the BOEM Director for reconsideration, in writing, within 15-business days of bid rejection, under 30 CFR 585.118(c)(1). The Director will

send you a written response either affirming or reversing the rejection.

## XX. Public Participation

BOEM does not consider anonymous comments; please include your name and address as part of your comment. You should be aware that your entire comment, including your name, address, and any other personally identifiable information (PII) included in your comment, may be made publicly available at any time. In order for BOEM to consider withholding your PII from disclosure, you must identify, in a cover letter, any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure, such as embarrassment, injury, or other harm.

Even if BOEM withholds your information in the context of this PSN, your submission is subject to the Freedom of Information Act (FOIA). If your comment is requested under FOIA, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

Note that BOEM will make available for public inspection all comments, except for identified privileged or confidential information, submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

## XXI. Protection of Privileged or Confidential Information

BOEM will protect privileged or confidential information that you submit consistent with the Freedom of Information Act (FOIA) and 30 CFR 585.114. Exemption 4 of FOIA applies to "trade secrets and commercial or financial information obtained from a person" that is privileged or confidential. 5 U.S.C. 552(b)(4).

If you wish to protect the confidentiality of your comments or qualification information, clearly mark the relevant sections "Contains Privileged or Confidential Information" and request that BOEM treat the information as confidential. You should consider submitting such information as a separate attachment. BOEM will not disclose such information, except as required by FOIA. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release. Further, BOEM will

not treat as confidential aggregate summaries of otherwise non-confidential information.

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

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

**Elizabeth Klein,**

*Director, Bureau of Ocean Energy Management.*

[FR Doc. 2024-05955 Filed 3-20-24; 8:45 am]

**BILLING CODE 4340-98-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1394]

### Certain Liquid Coolers for Electronic Components in Computers, Components Thereof, Devices for Controlling Same, and Products Containing Same; Notice of Institution

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 14, 2024, under section 337 of the Tariff Act of 1930, as amended, on behalf of Cooler Master Co., Ltd. of Taiwan; CMI USA, Inc. of Claremont, California; and CMC Great USA, Inc. of San Jose, California. A supplement to the complaint was filed on March 6, 2024. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain liquid coolers for electronic components in computers, components thereof, devices for controlling same, and products containing same by reason of the infringement of certain claims of U.S. Patent No. 10,509,446 ("the '446 patent"); U.S. Patent No. 11,061,450 ("the '450 patent"); and U.S. Patent No. D856,941 ("the '941 patent"). The complaint further alleges that an

industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Katherine Hiner, The Office of Docket Services, U.S. International Trade Commission, telephone (202) 205-2560.

### SUPPLEMENTARY INFORMATION:

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2023).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on March 15, 2024, *ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-3 and 14 of the '446 patent; claims 1-4 of the '450 patent; and the claim of the '941 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "liquid coolers for electronic components in computers, components thereof, LED controllers for