

Legal Update

US BOEM Issues Proposed Sale Notice for Lease of New York Bight for Offshore Wind Energy

On June 11, 2021, the United States Bureau of Ocean Energy Management (BOEM) issued a [Proposed Sale Notice](#) (PSN), or the sale of commercial wind energy leases, on the Outer Continental Shelf (OCS) in the New York Bight¹. General information regarding BOEM's past activities regarding New York is [here](#), including BOEM's prior [call](#) in 2018 (2018 Call) for information and nominations of industry interest for four call areas (2018 Call Areas) in the New York Bight.

The PSN opens a 60-day public comment period and, under the PSN BOEM, "proposes to offer for auction sale eight lease areas (Lease Areas), some created by subdividing the 2018 Call Areas, using a single factor ascending-bid auction. The PSN contains information pertaining to the areas available for leasing, certain provisions and conditions of the leases, auction details, lease forms, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution."

The eight lease areas, Lease OCS-A 0537 through Lease OCS-A 0544, are as follows:

Lease Area Name	Lease Area ID	Acres
Central Bight	OCS-A 0537	84,688
Hudson South - B	OCS-A 0538	84,332
Hudson South - C	OCS-A 0539	80,062
Hudson South - D	OCS-A 0540	76,148
Hudson South - E	OCS-A 0541	84,688
Hudson South - F	OCS-A 0542	87,890
Hudson South - A	OCS-A 0543	85,755
Hudson North	OCS-A 0544	43,056
<i>Total</i>		627,331

BOEM acknowledges the dramatic increase in market demand for offshore renewable energy development opportunities and the associated potential for higher lease sale prices, and BOEM proposes to allow each qualified entity to bid for only one lease in any given round and to ultimately acquire only one lease area from the auction.

In the PSN, BOEM also seeks feedback on several lease stipulations that will reaffirm its commitment to create good-paying union jobs and engage with all stakeholders and ocean users². Some of these potential stipulations include:

- A requirement to make every reasonable effort to enter into a project labor agreement covering the construction of any project proposed for the lease area.
- A requirement to include a stakeholder and ocean user engagement summary as part of a lessee's progress reporting requirements. This summary would describe existing ocean users in the New York Bight, 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. This provision is intended to strengthen current fisheries' communication requirements and improve coordination between the lessee and fishing communities early in the planning of proposed wind facilities.
- Mechanisms to provide benefits to underserved communities and investments in a domestic supply chain, consistent with the goals and objectives of the Outer Continental Shelf Lands Act.

Comments on the PSN are due August 13, 2021—within 60 days after the June 14, 2021, publication in the [Federal Register](#)—and BOEM intends to host a public seminar to discuss the lease sale process and the auction format at a time and place to be announced.

Given past interest in the 2018 Call (which has already qualified some companies to participate in the upcoming sale), there is likely to be significant interest in the proposed sale. To qualify to participate in such sale, bidders must submit the required qualification materials within the 60-day comment period for the PSN.

In a supporting [statement](#), New York State Governor Andrew Cuomo added:

“the Biden Administration should be commended for moving swiftly to advance offshore wind power in the New York Bight. The lease areas identified today will not only support the generation of approximately 7,500 megawatts of offshore wind energy, helping New York meet its nation-leading goal of 9,000 megawatts by 2035, but also unlock the potential for 10,000 jobs and billions of dollars in private investments in New York alone.”

For more information about the topics raised in this Legal Update, please contact any of the following lawyers.

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Endnotes

¹ This was anticipated by the Biden administration’s announcement on March 29, 2021. See our March 30, 2021, Legal Update “[Biden Administration Jumpstarts Offshore Wind Energy Projects to Create Jobs](#)” for additional details.

² Similar conditions have appeared in other offshore wind solicitations. See our March 23, 2021, Legal Update “[ESG in US Offshore Wind \(and Not for the Reason That You Are Probably Thinking\): Social Considerations for Other Infrastructure Also Likely](#).”

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