



This document is scheduled to be published in the Federal Register on 10/31/2016 and available online at <https://federalregister.gov/d/2016-26240>, and on FDsys.gov

Billing Code: 4310-MR

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2016-0071]

Atlantic Wind Lease Sale 6 (ATLW-6) for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore New York—Final Sale Notice

MMAA104000

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Final Sale Notice for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore New York.

SUMMARY: This document is the Final Sale Notice (FSN) for the sale of one commercial wind energy lease on the Outer Continental Shelf (OCS) offshore New York, pursuant to 30 CFR 585.216. The Bureau of Ocean Energy Management (BOEM or “the Bureau”) will offer Lease OCS-A 0512 for sale using a multiple-factor auction format. This FSN contains information pertaining to the area available for leasing, lease provisions and conditions, auction details, the lease form, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution. The issuance of the lease resulting from this sale would not constitute an approval of project-specific plans to develop offshore wind energy. Such plans, if submitted by the lease sale winner, would be subject to subsequent environmental and public review prior to a decision to proceed with development.

DATES: BOEM will hold a mock auction for the bidders starting at 8:30 a.m. Eastern Standard (EST) on **December 13, 2016**. The monetary auction will be held online and will begin at 8:30 a.m. Eastern Standard Time (EST) on **December 15, 2016**. Additional details are provided in the section entitled, “Deadlines and Milestones for Bidders.”

FOR FURTHER INFORMATION CONTACT: Wright Frank, New York Project Coordinator and Auction Manager, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM-OREP, Sterling, Virginia, 20166, (703) 787-1325 or Wright.Frank@boem.gov.

BACKGROUND: BOEM proposed this lease sale on June 6, 2016, in *Proposed Sale Notice (PSN) for Commercial Leasing for Wind Power on the Outer Continental Shelf (OCS) Offshore New York*, which was published in the *Federal Register* with a 60-day public comment period (81 FR 36336). BOEM received 401 comment submissions in response to the PSN, which are available in the *Federal Register* docket (Docket ID: BOEM-2016-0027) through BOEM's website at: <http://www.boem.gov/New-York/>. BOEM has posted a document containing responses to comments submitted during the PSN comment period. The document, entitled *Response to Comments*, can be found at the following URL: <http://www.boem.gov/New-York/>.

BOEM made several changes from the description of the New York lease sale that was published in the PSN. Three changes worth highlighting are: a 10% bidding credit for entities that establish that they are a "government authority" meeting the definition included in this notice, an adaptation to the auction format, and the removal of a small portion of the lease area. The auction format described here differs slightly from past lease sales in that bidders may have a "limited opportunity to revoke" a provisionally winning bid without penalty if the next-highest bid was submitted by a governmental entity. An explanation regarding the reduction in the area of the LA relative to the area described in the PSN is provided in the section entitled "Area Offered for Leasing."

Environmental Reviews

On May 28, 2014, BOEM published a Notice of Intent (NOI) to Prepare an Environmental Assessment (EA) for commercial wind lease issuance and approval of site assessment activities on the Atlantic OCS offshore New York with a 45-day public comment period (79 FR 30643). In response to the NOI, BOEM received 32 comment submissions, a link to which is available at <http://www.boem.gov/New-York/>. BOEM considered these comments in determining the scope of issues and alternatives analyzed in the EA.

On June 6, 2016, in conjunction with the PSN, BOEM published an EA for public comment (81 FR 36344). BOEM received approximately 60 submittals. Submittals included letters, emails, comment cards, and comments made to a court reporter at public meetings. BOEM identified 300 discrete comments within the submittals received. Comments were received from various stakeholders, including private citizens, environmental groups, Federal agencies, trade associations, businesses, state agencies, universities, and Federal organizations.

Concurrent with publication of this FSN, BOEM has published a Notice of Availability (NOA) for the revised EA and Finding of No Significant Impact (FONSI) for commercial wind lease issuance and site assessment activities on the Atlantic OCS offshore New York. The EA and FONSI are available at: <http://www.boem.gov/New-York/>.

All consultations necessary to inform BOEM's lease issuance decision have been completed. BOEM completed consultations with the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) under the Endangered Species Act (ESA). BOEM completed

formal consultation with NMFS upon receipt of a Biological Opinion on March 10, 2013, (revised on April 10, 2013). That consultation covered lease issuance and site characterization activities (i.e., high resolution geophysical surveys, biological surveys, and geotechnical sampling). On September 14, 2016, the USFWS concurred with BOEM's determination that such activities were not likely to adversely affect piping plovers, roseate terns, and red knots, and BOEM's determination of no effect on the northern long-eared bat for site characterization and assessment activities.

BOEM also consulted with the State Historic Preservation Offices of New York and New Jersey, the National Park Service, and Monmouth County New Jersey under the National Historic Preservation Act. The *Finding of No Historic Properties Affected for the Issuance of a Commercial Lease with in the New York Wind Energy Area on the Outer Continental Shelf Offshore New York* can be found at:

<http://www.boem.gov/Renewable-Energy/Historic-Preservation-Activities/>. In August 2016, the States of New York and New Jersey concurred with BOEM's consistency determination under the Coastal Zone Management Act.

On July 11, 2016, NMFS provided comments on the EA pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) and recommended that BOEM coordinate with NMFS in the review of site-specific survey plans and Site Assessment Plans (SAPs). Because of the programmatic nature of the essential fish habitat (EFH) assessment, NMFS elected not to provide any specific EFH conservation measures until such time as site-specific plans are received.

For the issuance of a commercial lease, BOEM considers the environmental consequences of associated site characterization activities (i.e., biological, archeological, geological and geophysical surveys, and core sampling). Therefore, mitigation measures

designed to reduce or eliminate impacts from survey activities will be included as stipulations in Addendum “C” of the lease (OCS-A 0512). If a lease is issued, BOEM will prepare additional environmental reviews upon receipt of the lessee’s SAP and/or Construction and Operations Plan (COP). BOEM will continue to work with affected stakeholders and assess ongoing and future research relating to potential survey, site assessment, and construction and operations impacts, including potential mitigation measures.

LIST OF ELIGIBLE BIDDERS: BOEM has determined that pursuant to 30 CFR 585.106 and 107, the following entities are legally, technically, and financially qualified to hold a commercial wind lease offshore New York, and therefore may participate in this lease sale as bidders subject to meeting the requirements outlined in this notice.

Company name	Company No.
Avangrid Renewables, LLC	15019
CI-II NY Inc.	15063
Clean Power Northeast Development Inc.	15064
Convult Energy LLC	15051
Deepwater Wind Hudson Canyon, LLC	15028
DONG Energy Wind Power (U.S.) Inc	15059
EDF Renewable Development, Inc.	15027
Energy Management, Inc.	15015
Fishermen’s Energy, LLC	15005
Innogy US Renewable Projects LLC	15061
New York State Energy Research and Development Authority	15062
Sea Breeze Energy LLC	15044
Statoil Wind US LLC	15058
wpd offshore Alpha LLC	15060

DEADLINES AND MILESTONES FOR BIDDERS: This section describes the major deadlines and milestones in the auction process from publication of this FSN to execution

of leases pursuant to this sale. These are organized into various stages: the FSN Waiting Period; Conducting the Auction; and From the Auction to Lease execution.

- FSN Waiting Period
 - *Bidder's Financial Form (BFF)*: Each bidder must submit a BFF to BOEM in order to participate in the auction. BOEM must receive each bidder's BFF no later than November 14, 2016. BOEM will 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 BFF can be downloaded at: <http://www.boem.gov/New-York/>. Once the BFF has been processed, bidders may log into *pay.gov* and submit bid deposits. For purposes of this auction, BOEM will not consider any BFFs submitted by bidders for previous lease sales. BOEM will only accept an originally executed paper copy of the BFF. The BFF must be executed by an authorized representative as shown on the bidder's legal qualifications. Each bidder is required to sign the self-certification in the BFF, in accordance with 18 U.S.C. § 1001 (Fraud and False Statements).
 - *Bid Deposits*: Each bidder must provide a bid deposit of \$450,000 no later than November 28, 2016, in order to participate in the mock auction and the monetary auction. BOEM will 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. Further information about bid deposits can be found in the "Bid Deposit" section of this notice.

- *Non-Monetary Package:* Each bidder must submit a non-monetary package if it is applying for a credit as a governmental authority as described in the “Auction Procedures: Credit Factors” section of this notice. For bidders applying for a credit, BOEM must receive non-monetary packages no later than November 28, 2016. BOEM will consider extensions to this deadline only if BOEM determines that the failure to timely submit a non-monetary package was caused by events beyond the bidder’s control. Non-monetary packages must be submitted in both paper and electronic formats. BOEM considers Adobe .pdf files stored on an electronic media (i.e., flash drive) to be acceptable.

Further information on this subject can be found in the section of this notice entitled, “Auction Procedures.”

- *Reservation of Limited Opportunity to Revoke (RLOR):* Under certain circumstances described in detail in this notice, a bidder that submits a provisionally winning bid may be afforded a one-hour opportunity to revoke its provisionally winning bid without penalty at the end of the auction. This opportunity will only be allowed if a governmental authority submitted the second-highest bid. In order to revoke a provisionally winning bid, a bidder must have reserved this opportunity in advance. BOEM must receive, no later than November 28, 2016, a completed form that can be downloaded from BOEM’s web site at <http://www.boem.gov/New-York/>, called the “Reservation of Limited Opportunity to Revoke” (RLOR). BOEM will consider extensions to this deadline only if it determines that the failure to timely submit the RLOR was caused by events beyond the bidder’s control.

By “opting-in,” the bidder will have an opportunity, if certain conditions are met, to revoke a provisionally winning bid without penalty during a short period of time following the auction. If the bidder does not “opt-in,” the bidder will not have this opportunity, and refusal to execute a lease pursuant to a provisionally winning bid will result in the loss of the bidder’s bid deposit.

- *Panel Convenes to Evaluate Non-Monetary Packages:* A short time before the auction, the panel described in the “Auction Procedures” section will convene to evaluate non-monetary packages. The panel is tentatively scheduled to meet on December 9, 2016, for this purpose. If BOEM has not received a non-monetary package by November 28, 2016, then the BOEM panel designated as responsible for determining bidder eligibility for the credit may not consider that bidder for a non-monetary auction credit. Once it has made its decisions, the panel will report determinations of eligibility to BOEM. BOEM will then inform each bidder by email of the panel’s determination as to whether the bidder qualifies for a non-monetary bid credit.

Mock Auction: BOEM will hold a Mock Auction on December 13, 2016, beginning at 8:30 a.m. EST. The Mock Auction will be held online. BOEM will contact each bidder that has timely filed a BFF and bid deposit and provide instructions for participation. Only bidders that have timely submitted BFFs and bid deposits will be permitted to participate in the Mock Auction.

- *Conducting the Auction:* BOEM, through its contractor, will hold an auction as described in this notice.

- *Auction:* On **December 15, 2016**, BOEM, through its contractor, will hold the auction. The first round of the auction will start at 8:30 a.m. EST. The auction will proceed electronically according to a schedule to be distributed by the BOEM Auction Manager at the time of the auction. BOEM anticipates that the auction may continue on consecutive business days, as necessary, until the auction ends in accordance with the procedures described in the “Auction Format” section of this notice. The monetary bidding will end in the first round where BOEM receives one or zero bids at the asking price.
 - *Limited Opportunity to Revoke (LOR) (if criteria met):* If the highest bidder has reserved an LOR, and a government authority is the second highest bidder, BOEM will contact the provisionally winning bidder through the auction system’s messaging platform and ask whether the bidder would like to revoke its provisionally winning bid without penalty. The bidder will have one hour from the time the message is sent to respond via the messaging system. If the bidder fails to respond within the allotted hour, BOEM will presume the bidder does not wish to exercise its revocation right, and the bidder will lose the right to revoke its provisionally winning bid without penalty. Further information can be found in the Auction Procedures section of this notice.
- *Announce Provisional Winner:* BOEM will announce the provisional winner of the lease sale after the auction ends and the one-hour LOR period, if applicable, has elapsed.
- *Reconvene the Panel:* The panel will reconvene after the bidding has concluded to verify auction results.

- From the Auction to Lease Execution
 - *Refund Non-Winners*: Once the provisional winner has been announced and the panel has verified the auction results, BOEM will provide the non-winners 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 the winner, with instructions on how to execute the lease. The first year's rent is due 45 calendar days after the winner receives the lease copies for execution.
 - *Return the Lease*: Within 10 business days of receiving the lease copies, the auction winner must post financial assurance, pay any outstanding balance of its bonus bid (i.e., winning monetary bid minus applicable non-monetary credits and bid deposit), and sign and return the three executed lease copies.
 - *Execution of Lease*: Once BOEM has received the lease copies and verified that all other required materials have been received, BOEM will make a final determination regarding its issuance of the lease and will execute the lease if appropriate.

AREA OFFERED FOR LEASING: The area available for sale will be auctioned as one lease, Lease OCS-A 0512 (New York LA). The New York LA consists of approximately 79,350 acres, which is reduced from the area originally proposed in the PSN. The reduction comprises five aliquots (sixteenths of an OCS block), which were removed in response to comments received from NMFS in response to the NOA of the EA and as part of consultations pursuant to the MSFCMA. A description of the final LA

can be found in Addendum “A” of the lease, which BOEM has made available with this notice on its website at: <http://www.boem.gov/New-York/>.

Map of the Area Offered for Leasing:

A map of the New York LA and GIS spatial files can be found on BOEM’s website at: <http://www.boem.gov/New-York/>.

A large scale map of the area, showing boundaries of the area with numbered blocks, is available from BOEM upon request at the following address: Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 45600 Woodland Road, VAM-OREP, Sterling, Virginia, 20166, Phone: (703) 787-1300, Fax: (703) 787-1708.

Potential Mitigation Measures and Restrictions on Development

During the Area Identification (Area ID) process, BOEM identified three issues of concern associated with potential development of the New York Wind Energy Area (WEA): (1) navigational safety; (2) commercial fishing; and (3) visual impacts to National Park Service lands and historic properties. Although BOEM did not remove any areas from leasing consideration during Area ID, potential bidders should be aware that future analysis of these or other issues could result in BOEM’s requiring mitigation measures and/or development restrictions in all or part of the New York LA. In addition, mitigation measures and/or development restrictions could result from future BOEM environmental reviews and consultations (e.g., future consultations under section 106 of the National Historic Preservation Act or future government-to-government consultations with federally recognized tribes).

Navigational Safety:

Potential bidders should note that future mitigation measures, including potential restrictions on the placement of structures, may be applied to development within all or

portions of the New York LA to ensure navigation safety and the U.S. Coast Guard's (USCG's) ability to maintain mission readiness.

The New York LA has been delineated to accommodate a setback of 1 nautical mile (nmi) from the adjacent Traffic Separation Schemes (TSSs) for the Port of New York and New Jersey. This setback is consistent with BOEM's delineation of other lease and wind energy areas that are in close proximity to TSSs (e.g., the lease areas offshore Massachusetts, Rhode Island/Massachusetts, Delaware, and Maryland; and the Wilmington West Wind Energy Area offshore North Carolina), and is based on input provided by the USCG as a member of the BOEM New York Intergovernmental Renewable Energy Task Force during development of the 2013 New York Request for Interest (RFI). As noted in the RFI, the LA includes aliquots that are transected by the 1 nmi setback line, and BOEM will require that no structures be installed on the portions of those aliquots located within the setback.

In September 2015, BOEM received additional input from the USCG recommending a larger setback of 2 nmi from the TSSs and 5 nmi from the entry/exit points of the TSSs. USCG's correspondence to BOEM, which explains the recommendation, is available on BOEM's website at <http://www.boem.gov/New-York/>. In addition, on March 22, 2016, the USCG released its Final Report for its Atlantic Coast Port Access Route Study (ACPARS), available at <http://www.uscg.mil/lantarea/acpars>. The USCG's Marine Planning Guidelines, included as Enclosure 2 of the ACPARS, are consistent with its September 2015 recommendation to BOEM. Although BOEM did not adopt the USCG's recommendation during Area ID, BOEM may determine at a later stage in the process (e.g., after evaluating a Navigational Safety Risk Assessment that is submitted as a part of a COP) that, even with the application of mitigation measures,

portions of the LA are not appropriate for the installation of wind facilities due to navigational safety concerns.

Commercial Fishing:

Potential bidders should note that future mitigation measures may be applied to development within all or portions of the New York LA due to the use of the area as a fishery.

BOEM received fishery-related comments in response to the RFI, Call for Information and Nominations, NOI, NOA, and several public outreach meetings. Commenters included NMFS, the New England and Mid-Atlantic Fishery Management Councils, and several fishing industry groups, primarily representing members of the sea scallop and squid fisheries. BOEM also received comments from commercial and recreational fishermen during BOEM's November 2015 fisheries workshops. A meeting summary of BOEM's November 2015 fisheries workshops and comments associated with these workshops are available on BOEM's website at <http://www.boem.gov/New-York/>, along with those comments received in response to BOEM's *Federal Register* notices relating to the New York LA.

BOEM has also gathered information regarding the use of the LA as a fishery through a joint study with NMFS. This data, specific to the New York LA, is included in the revised EA and is available on BOEM's website at <http://www.boem.gov/Fishing-Revenue-NY-Call-Area/>. The spatial dataset is available at <http://www.boem.gov/Renewable-Energy-GIS-Data/>. Potential bidders should be aware that BOEM will be gathering additional data and may require plan-specific mitigation measures to minimize impacts.

Between 2012 and 2016, BOEM collaborated with numerous stakeholders in the fishing and offshore wind industries to develop best management practices (BMPs) in furtherance of its goal of minimizing potential multiple use conflicts between offshore renewable energy developers and the fishing industry. As a result of this effort, BOEM has concluded that there would be great merit in a lessee's utilizing a fisheries liaison and a fisheries representative during the lessee's plan development process. BOEM has also received comments from the public regarding the importance of ensuring effective communication between the lessee and the fishing community. As a result, BOEM has issued guidance to lessees for communicating with fisheries stakeholders regarding social and economic impacts of renewable energy development on the Atlantic Outer Continental Shelf: <http://www.boem.gov/Social-and-Economic-Conditions-Fishery-Communication-Guidelines/>. Further, BOEM is requiring in Addendum C of the lease that the lessee develop a Fisheries Communication Plan that includes the utilization of a fisheries liaison to facilitate communication with the fishing industry.

Visual Impacts to Historic Properties:

Potential bidders should note that future mitigation measures may be applied to development within all or portions of the New York LA to avoid, minimize, or mitigate adverse effects to historic properties or National Park Service (NPS) lands. The NPS, New York State Historic Preservation Office (NY SHPO), and New Jersey State Historic Preservation Office (NJ SHPO) have expressed concern regarding the potential for wind energy development within the New York WEA to cause adverse effects to onshore historic properties. Correspondence outlining these concerns is available on BOEM's website at <http://www.boem.gov/New-York/>.

During the summer and fall of 2015, BOEM conducted stakeholder outreach with the NPS, NY SHPO, and NJ SHPO. BOEM also completed a study entitled, “Renewable Energy Viewshed Analysis and Visualization Simulation for the New York Outer Continental Shelf Call Area” to assist in this outreach effort and to provide scientific and technical information about visual impacts to inform its Area ID decision. Results of this study are available under the header “Visual Simulations” at <http://www.boem.gov/New-York/>.

WITHDRAWAL OF BLOCKS: BOEM reserves the right to withdraw all or portions of the LA prior to executing the lease with the winning bidder, based upon relevant information provided to the Bureau.

LEASE TERMS AND CONDITIONS: BOEM has included terms, conditions, and stipulations for the OCS commercial wind lease to be offered through this sale. After the lease is issued, BOEM reserves the right to require compliance with additional terms and conditions associated with approval of a SAP or COP.

The lease is available on BOEM’s website at <http://www.boem.gov/New-York/>. The lease includes the following seven attachments:

- Addendum “A” (Description of Leased Area and Lease Activities);
- Addendum “B” (Lease Term and Financial Schedule);
- Addendum “C” (Lease Specific Terms, Conditions, and Stipulations);
- Addendum “D” (Project Easement);
- Addendum “E” (Rent Schedule post COP approval);
- Appendix A to Addendum “C”: (Incident Report: Protected Species Injury or Mortality); and

- Appendix B to Addendum “C”: (Required Data Elements for Protected Species Observer Reports).

Addenda “A,” “B,” and “C” provide detailed descriptions of lease terms and conditions. Addenda “D” and “E” will be completed at the time of COP approval or approval with modifications.

The most recent version of BOEM’s renewable energy commercial lease form (BOEM-0008) is available on BOEM’s website at: <http://www.boem.gov/BOEM-OCS-Operation-Forms/>.

Potential bidders should note that BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) are in the process of reassigning regulations relating to safety and environmental oversight and enforcement responsibilities for offshore renewable energy projects from BOEM to BSEE. Once this administrative reassignment is finalized, BOEM may make ministerial and non-substantive amendments to the lease to conform it to regulatory revisions.

Plans: Pursuant to 30 CFR 585.601, the lessee must submit a SAP within 12 months of lease issuance. If the lessee intends to continue its commercial lease with an operations term, the lessee must submit a COP at least 6 months before the end of the site assessment term.

FINANCIAL TERMS AND CONDITIONS: This section provides an overview of the annual payments required of the lessee that will be fully described in the lease, and the financial assurance requirements that will be associated with the lease.

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 of the date the lessee receives the lease for execution. 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 not authorized for commercial operations, *i.e.*, not generating electricity. However, instead of geographically dividing the LA into acreage that is “generating” and “non-generating,” the fraction of the lease accruing rent will be based on the fraction of the total nameplate capacity of the project that is not yet in operation. This fraction is calculated by dividing the nameplate capacity not yet authorized for commercial operations at the time payment is due by the anticipated nameplate capacity after full installation of the project (as described in the COP). The annual rent due for a given year is then derived by multiplying this fraction by the amount of rent that would have been due for the lessee’s entire LA at the rental rate of \$3 per acre.

For a 79,350 acre lease (the size of the New York LA), the rent payment will be \$238,050 per year (\$3 times 79,350) if no portion of the leased area is authorized for commercial operations. If 300 megawatts (MW) of a project’s nameplate capacity is operating (or authorized for operation), and the approved COP specifies a maximum project size of 500 MW, the rent payment will be \$95,220. This payment is based on the 200 MW of nameplate capacity BOEM has not yet authorized for commercial operations. For the above example, this would be calculated as follows: $200\text{MW}/500\text{MW} \times (\$3/\text{acre} \times 79,350 \text{ acres}) = \$95,220$.

If the lessee submits an application for relinquishment of a portion of its lease area within the first 45 calendar days following the date that the lease is received by the lessee for execution, and BOEM approves that application, no rent payment will be due on the relinquished portion of the LA. Later relinquishments of any portion of the LA

will 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, commencing on the date that BOEM approves the COP (or modification thereof) that describes the project easement. 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, pursuant to 30 CFR 585.506, an operating fee rate is applied to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first twelve 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 is due within 45 days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments are due on or before each Lease Anniversary.

The subsequent annual operating fee payments are calculated by multiplying the operating fee rate by the imputed wholesale market value of the projected annual electric power production. For the purposes of this calculation, the imputed market value is the product of the project's annual nameplate capacity, the total number of hours in a year (8,760), the capacity factor, and the annual average price of electricity derived from a historical regional wholesale power price index. For example, the annual operating fee for a 100 MW wind facility operating at a 40% capacity (i.e., capacity factor of 0.4) with a regional wholesale power price of \$50/MWh and an operating fee rate of 0.02 would be calculated as follows:

$$\text{Annual Operating Fee} = 100\text{MW} \times 8,760 \frac{\text{hrs}}{\text{year}} \times 0.4 \times \frac{\$50}{\text{MWh}} \text{Power Price} \times 0.02 = \$350,400$$

Operating Fee Rate: The operating fee rate is the share of imputed wholesale market value of the projected annual electric power production due to BOEM as an annual operating fee. For the New York LA to be offered in this sale, this fee is set at 0.02 (i.e., 2%) during the entire life of commercial operations.

Nameplate Capacity: Nameplate capacity is the maximum rated electric output, expressed in MW, that the turbines of the wind facility under commercial operations can produce at their rated wind speed as designated by the turbine's manufacturer. The lessee will specify in its COP the nameplate capacity available at the start of each year of commercial operations on the lease. For example, if the lessee specifies 20 turbines in its COP, and each is rated by the manufacturer at 5 MW, the nameplate capacity of the wind facility would be 100 MW.

Capacity Factor: The capacity factor compares the amount of energy delivered to the grid during a period of time to the amount of energy the wind facility would have produced at full capacity. The amount of power delivered will always be less than the theoretical 100% capacity, largely because of the variability of wind speeds, transmission line loss, and down time for maintenance or other purposes.

The capacity factor is expressed as a decimal between zero and one, and represents the share of anticipated generation of the wind facility that is delivered to the interconnection grid (i.e., where the lessee's facility interconnects with the electric grid) relative to the wind facility's generation at continuous full power operation at nameplate capacity. BOEM has set the capacity factor for the year in which commercial operations commence and the six full years thereafter at 0.4 (i.e., 40%). At the end of the sixth year, BOEM may adjust the capacity factor to reflect the performance over the previous five

full years based upon the actual metered electricity generation at the delivery point to the electrical grid. BOEM may make similar adjustments to the capacity factor once every five years thereafter. The maximum change in the capacity factor from one period to the next will be limited to plus or minus 10 percent of the previous period's value.

Wholesale Power Price Index: Pursuant to 30 CFR 585.506(c)(2)(i), the wholesale power price, expressed in dollars per MW-hour, is determined at the time each annual operating fee payment is due, based on the weighted average of the inflation-adjusted peak and off-peak spot price indices. Typically, BOEM's commercial wind leases specify an electric region and a source for referencing price information. However, at the current time, it is uncertain where a project's transmission cable may make landfall, so BOEM decided not to specify the electric region and source of price information at the lease issuance stage. The electric region of the wholesale power price index will encompass the location where the cable makes landfall. BOEM will specify the referencing price information upon approval of the COP. The wholesale power price is adjusted for inflation from the year associated with the published spot price indices to the year in which the operating fee is to be due, based on the Lease Anniversary and using annual implicit price deflators as reported by the U.S. Department of Commerce Bureau of Economic Analysis.

Financial Assurance:

Within 10 business days after receiving the lease copies and pursuant to 30 CFR 585.515-.516, the provisional winner of the New York LA must provide an initial lease-specific bond or other approved means of meeting BOEM's initial financial assurance requirements. The provisional winner may meet financial assurance requirements by posting a surety bond or by setting up an escrow account with a trust agreement giving

BOEM the right to withdraw the money held in the account on demand. BOEM encourages the provisionally winning bidder to discuss the financial assurance requirement with BOEM as soon as possible after the auction has concluded.

BOEM will base the amount of all SAP, COP, and decommissioning financial assurance requirements 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 can be found in Addendum “B” of the lease, which BOEM has made available with this notice on its website at: <http://www.boem.gov/New-York/>.

BID DEPOSIT: A bid deposit is an advance cash deposit submitted to BOEM in order to participate in the auction. Each bidder must submit a bid deposit of \$450,000 no later than November 28, 2016. Any bidder that fails to submit the bid deposit by this deadline may be disqualified from participating in the auction. Bid deposits will be accepted online via *pay.gov*.

Each bidder must fill out the BFF referenced in this FSN. BOEM has made a copy of the form available with this notice on its website at: <http://www.boem.gov/New-York/>. BOEM recommends that each bidder designate an email address in its BFF that the bidder will then use to create an account in *pay.gov* (if it has not already done so). Bidders may then use the Bid Deposit Form on the *pay.gov* web site to leave a deposit.

BOEM will not consider BFFs submitted by bidders for previous lease sales to satisfy the requirements of this auction. Further, BOEM will only consider BFFs submitted after the deadline if BOEM determines that the failure to timely submit the BFF was caused by events beyond the bidder’s control. BOEM will only accept an original, executed paper copy of the BFF. The BFF must be executed by an authorized

representative who has been identified in the qualifications package on file with BOEM as authorized to bind the company.

Following the auction, bid deposits will be applied against bids or other obligations owed to BOEM. If the bid deposit exceeds a bidder's total financial obligation, the balance of the bid deposit will be refunded to the bidder. BOEM will refund bid deposits to non-winners once BOEM has announced the provisional winner.

Bidders will forfeit their bid deposit if they are the provisionally winning bidder and they fail to execute a lease pursuant to their provisionally winning bid. Exercising the LOR pursuant to the rules described in this notice constitutes a limited exception to this rule, wherein if BOEM notifies a bidder that it may revoke its provisionally winning bid immediately following the lease sale, and if the bidder revokes such bid within the allotted time, then that bidder will not forfeit its \$450,000 bid deposit. If a bidder exercises its LOR in this manner, BOEM will reoffer the lease to the government authority that is the second-highest bidder. In this case, the government authority would inherit the obligation to execute a lease pursuant to the government authority's now-provisionally winning bid, forfeiting its bid deposit if it does not execute the lease within the required timeframe.

If BOEM offers a lease pursuant to a provisionally winning bid, and that bidder fails to timely return the signed lease form, establish financial assurance, or pay the balance of its bid, BOEM will retain that bidder's \$450,000 bid deposit. BOEM reserves the right to reconvene the panel to determine which bidder would have won in the absence of the provisionally winning bid, and to offer a lease to that bidder.

MINIMUM BID: The minimum bid is the lowest bid price BOEM will accept as a winning bid, and it is where BOEM will start the monetary bidding. BOEM has

established a minimum bid of \$2.00 per acre for this lease sale. Accordingly, the minimum bid will be \$158,700 for Lease OCS-A 0512.

AUCTION PROCEDURES:

Multiple-Factor Bidding

As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM will use a multiple-factor auction format, with a multiple-factor bidding system, for this lease sale. Under this system, BOEM may consider a combination of monetary and non-monetary factors, or “variables,” in determining the outcome of the auction. BOEM will appoint a panel of BOEM employees to review the non-monetary packages and verify the results of the lease sale. BOEM reserves the right to change the composition of this panel at any time.

10% Non-Monetary Credit for Government Authorities

In response to public comments on the PSN, BOEM is offering a 10% non-monetary bid credit in this lease sale for government authorities. In order to be considered for this non-monetary credit, BOEM must receive a bidder’s non-monetary package no later than November 28, 2016, establishing that the bidder meets the definition of a government authority, below:

Government Authority: A governmental entity, political subdivision thereof, or public benefit corporation exercising executive and/or regulatory functions within the United States.

If a bidder wishes to establish itself as a government authority for the purposes of the auction, it must timely submit a non-monetary package for approval by BOEM. The non-monetary package may consist of new information to help a bidder demonstrate its status as a government authority, and/or may

reference materials that the bidder has already submitted to BOEM to establish that the bidder is legally qualified to participate in the sale. If bidders wish to review what materials they have already submitted, they should contact Gina Best at 703-787-1341, as soon as practicable.

Prior to the date of the auction, the panel will determine which bidders, if any, have qualified for the non-monetary credit. Bidders will be notified by email prior to the date of the auction if they have been granted a non-monetary credit. If the panel determines that no bidder is eligible to bid as a government authority and receive a credit, the auction will proceed with each bidder registered with no imputed credit. Bidders will not be notified whether other bidders have qualified for a non-monetary credit until after the bidding has concluded.

Under the format for this sale, in each round a bidder may submit a bid proposal, i.e., a multiple-factor bid, for the LA. The multiple-factor bid made by a particular bidder in each round represents the sum of a non-monetary credit and a monetary (cash) amount. The non-monetary portion of the bid is represented by a 10% credit on the bid. This credit will be applied throughout the auction in each round as a form of imputed payment against the LA's asking price in a bidder's multiple-factor bid. The bid credit will be bundled into each bid. In each round, the auction system will show each bidder how their As-Bid auction price is affected by the credit imputed to its bid.

Reservation of Limited Opportunity to Revoke (RLOR)

In response to public comments on the PSN, BOEM is introducing the LOR as a feature of the New York lease sale. Each bidder may download, complete, sign and return the RLOR form from BOEM's web site at <http://www.boem.gov/New-York/>. BOEM must receive the completed, signed RLOR no later than November 28, 2016. If

BOEM does not receive the form by that date, BOEM will presume that the bidder does NOT wish to reserve the LOR. BOEM will consider extensions to this deadline only if BOEM determines that the failure to timely submit an RLOR was caused by events beyond the bidder's control.

If a bidder opts into an LOR, and then becomes the provisional winner of the auction, it will be given a short opportunity just after the auction to revoke its provisionally winning bid without forfeiting its bid deposit of \$450,000, if the second-place bidder is a government authority. Alternatively, bidders may choose not to opt-in. If a provisionally winning bidder does not reserve the LOR, that bidder will not be given an opportunity to revoke its provisionally winning bid following the sale without jeopardizing its bid deposit of \$450,000. If a bidder fails to return the form in a timely manner, absent any extension granted by BOEM, it will be deemed to have opted out of its LOR. More information on LOR can be found in the “*Determining Provisional Winner*” section below.

The Auction

The auction will be conducted in a series of rounds. At the start of each round, BOEM will state an asking price for the LA. If a bidder is willing to meet that asking price for the LA, it will indicate this by submitting a bid equal to the asking price, i.e., a live bid. If the bidder has earned a non-monetary credit, it will meet the asking price by submitting a multiple-factor bid — that is, a live bid that consists of a monetary element (90%) and a non-monetary element (10%), the sum of which equals the asking price. Bidders without a non-monetary credit will submit a cash bid equal to the asking price.

To participate in any round of the auction, a bidder must have submitted a live bid in the previous round. As long as there are two or more live bids for the LA, the auction

proceeds to the next round. Between rounds, BOEM will raise the asking price for the LA by an increment that it determines appropriate. Asking price increments are within BOEM's sole discretion, but are based on a number of factors, including the number of bidders still active in the auction and BOEM's best estimate of how many rounds may remain before the auction is resolved. BOEM also reserves the right to increase or decrease bidding increments between rounds, if it determines that a different increment is warranted to enhance the efficiency of the auction process.

As the auction proceeds, a bidder retains its eligibility to continue bidding as long as that bidder submitted a live bid on the LA in the previous round. Between rounds, BOEM will release information indicating the number of live bids for the LA in the previous round of the auction (i.e., the level of demand) and the asking price for the LA in the upcoming round of the auction. Bidders may be bound by any of their bids until the auction results are finalized.

Exit Bidding

In any round after the first round of the auction, a bidder may submit an exit bid that is higher than the previous round's asking price, but less than the current round's asking price. An exit bid must consist of a single offer price. If a bidder submits an exit bid, it is not eligible to participate in subsequent bidding rounds of the auction. During the auction, exit bids will be seen only by BOEM and not by other bidders.

If the LA receives only exit bids in a round, BOEM will not raise the price and start another round, because no bidders would be eligible to bid in the next round.

Determining the Provisional Winner

The auction will end in the first round in which one or zero live bids is received. If one live bid is received, that bid is the provisionally winning bid. If no live bids are

received, then the highest exit bid received is the provisionally winning bid. If there is a tie for the highest exit bid, BOEM's tie-breaking procedures will resolve the tie. If no live or exit bids are received, then there is a tie among all bidders that submitted live bids at the most recent asking price, and BOEM's tie-breaking procedures will determine the provisionally winning bid.

LOR

As noted, in response to public comments on the PSN, this lease sale includes an LOR. Ordinarily, if a provisionally winning bidder does not execute a lease pursuant to that provisionally winning bid, that bidder will forfeit its bid deposit. In this lease sale, a provisionally winning bidder will have a chance to revoke its provisionally winning bid without this penalty, but *only* under the following circumstances:

1. The provisionally winning bidder reserved the right to a LOR through a timely-submitted RLOR in advance of the auction; and
2. The second highest bid was submitted by a government authority.

If these two elements are satisfied, then BOEM will offer the provisionally winning bidder one hour to revoke its provisionally winning bid. If there is a tie for the second highest bid, including a government authority, the tie will be resolved and an LOR will be offered only if the government authority has the second-place bid following resolution of the tie.

The provisionally winning bidder will be given precisely one hour to revoke, using the messaging tool in the auction system. If that bidder wishes to revoke, the message should consist of the following statement:

"We hereby revoke our provisionally winning bid for ATLW-6, pursuant to the Reservation of Limited Opportunity to Revoke form submitted previously."

If the statement above is not included *verbatim* in the message a bidder uses to exercise its limited right to revoke, BOEM may not accept the LOR. Once BOEM receives this message, it will consider the provisionally winning bid to be revoked. If the provisionally winning bidder revokes its bid, the government authority will then become the new provisionally winning bidder and will be subject to the conditions in 30 CFR 585.224. In this case, the provisionally winning bid will be the government authority's last bid for the LA.

If the provisionally winning bidder does not revoke its bid within the designated hour, BOEM's requirements for the bidder will be the same as it would be for a sale without the LOR. Pursuant to 30 CFR 585.224, once BOEM sends the lease copies to the bidder, the bidder must timely pay the balance of its bid, establish financial assurance, and properly sign and return the lease copies. If the bidder fails to do so, then BOEM may not issue the lease to that bidder, in which case the bidder would forfeit its bid deposit. BOEM may consider failure of a bidder to timely pay the full amount due an indication that the bidder is no longer financially qualified to participate in other lease sales under BOEM's regulations at 30 CFR 585.106 and 585.107.

If the highest bidder revokes its provisionally winning bid pursuant to an LOR, the government authority with the second-highest bid in the auction becomes the provisionally winning bidder and must follow all of BOEM's requirements contained in 30 CFR 585.224. The government authority would then need to execute a lease pursuant to its provisionally winning bid, or risk forfeiture of its bid deposit.

BOEM will use its tie-breaking procedures to resolve any ties before determining whether the conditions have been met for offering a provisionally winning bidder a LOR. Ties are resolved by a random process. The auction system generates a random number

for each bidder. In the event of a tie, these numbers are compared, and the bidder with the higher random number is deemed the provisional winner.

Following the lease sale, the non-monetary panel will convene, review the auction record, and certify the results of the sale. Shortly thereafter, BOEM will notify the DOJ that it may begin its antitrust review pursuant to 43 U.S.C. § 1337(c).

If a bidder fails to execute a lease pursuant to a provisionally winning bid, BOEM may reoffer that lease to the next highest bidder. If the bidder that fails to execute is a government authority that had been declared the provisional winner after the exercise of a LOR, BOEM may first reoffer the lease to the bidder that had exercised the LOR. If BOEM reoffers the lease following a bidder's failure to execute a lease pursuant to a provisionally winning bid, the second bidder to which the lease is offered may decline the offer without forfeiting its bid deposit.

Additional Information Regarding the Auction Format

Bidder Authentication

For the online auction, BOEM will require two-factor authentication. Prior to the auction, the Auction Manager will send several bidder authentication packages to the bidders shortly after BOEM has processed the BFFs. One package will contain digital authentication tokens allowing access to the auction website. The tokens will be mailed to the Primary Point of Contact indicated on the BFF. This individual is responsible for distributing the tokens to the individuals authorized to bid for that company. ***Bidders are to ensure that each token is returned within three business days following the auction.*** An addressed, stamped envelope will be provided to facilitate this process. In the event that a bidder fails to submit a bid deposit or does not participate in the auction, BOEM

will de-activate that bidder's token and login information, and the bidder will be asked to return its tokens.

The second package contains login credentials for authorized bidders. The login credentials will be mailed to the address provided in the BFF for each authorized individual. Bidders can confirm these addresses by calling 703-787-1320. This package will contain user login information and instructions for accessing the Auction System Technical Supplement and Alternative Bidding Form. The login information, along with the tokens, will be tested during the Mock Auction.

Timing of Auction

The auction will begin at 8:30 a.m. EST on **December 15, 2016**. Bidders may log in as early as 8:00 a.m. on that day. We recommend that bidders log in earlier than 8:30 a.m. on that day to ensure that any login issues are resolved prior to the start of the auction. Once bidders have logged in, they should review the auction schedule, which lists the start times, end times, and recess times of each round in the auction. Each round is structured as follows:

- Round bidding begins;
- Bidders enter their bids;
- Round bidding ends and the Recess begins;
- During the Recess, previous Round results are posted;
- Bidders review the previous Round results and prepare their next Round bids; and
- Next Round bidding begins.

The first round will last about 30 minutes, though subsequent rounds may be shorter. Recesses are anticipated to last approximately 10 minutes. The descriptions of

the auction schedule and asking price increments included with this FSN are tentative. Bidders should consult the auction schedule on the bidding website during the auction for updated times. Bidding will continue until about 6:00 p.m. each day. BOEM anticipates the auction will last one or two business days, but bidders are advised to prepare to continue bidding for additional business days as necessary to resolve the auction.

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 may change the schedule at any time, including during the auction. If BOEM changes the schedule during the auction, it will use the messaging feature to notify bidders that a revision has been made, and direct bidders to the relevant page. BOEM will also use the messaging system for other changes and items of note during the auction.

Bidders may place bids at any time during the round. At the top of the bidding page, a countdown clock will show how much time remains in the round. Bidders have until the scheduled time to place bids. Bidders should do so according to the procedures described in this notice, and the Auction System Technical Supplement. No information about the round is available until the round has closed and results have been posted, so there should be no strategic advantage to placing bids early or late in the round.

The timing of the auction will be elaborated on and clarified in the Auction System Technical Supplement available on BOEM's website at: <http://www.boem.gov/New-York/>. The Auction System Technical Supplement describes auction procedures that are incorporated by reference in this notice, unless the procedures described in the Auction System Technical Supplement directly contradict this notice. In the event of a contradiction, this FSN is controlling.

Prohibition on Communications Between Bidders During Auction

During the auction, and including one hour after the auction if LOR is triggered, bidders are prohibited from communicating with each other regarding their participation in the auction. Additionally, during the auction, and including one hour after the auction if LOR is triggered, bidders are prohibited from communicating to the general public, including, but not limited to, through social media, updated websites, or press releases, regarding any aspect of their participation or lack thereof in the auction.

Alternate Bidding Procedures

Alternate Bidding Procedures enable a bidder that is having difficulties accessing the Internet to submit its bid via fax using an Alternate Bidding Form available on BOEM's website at: <http://www.boem.gov/New-York/>.

In order to be authorized to use an Alternative Bidding Form, a bidder must call the help desk number listed in the Auction Manual *before* the end of the round. BOEM will authenticate the caller to ensure he/she is authorized to bid on behalf of the bidder. The bidder must explain the reasons for which he/she is forced to place a bid using the Alternate Bidding Procedures. BOEM may, in its sole discretion, permit or refuse to accept a request for the placement of a bid using the Alternate Bidding Procedures.

If bidders need to submit an Alternate Bidding Form, they are strongly encouraged to do so before the round ends.

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, and all applicable regulations and statutes.

ANTI-COMPETITIVE REVIEW:

Bidding behavior in this sale is subject to Federal antitrust laws. Accordingly, following the auction, but before the acceptance of bids and the issuance of leases, BOEM will “allow the Attorney General, in consultation with the Federal Trade Commission, 30 days to review the results of the lease sale.” 43 U.S.C. § 1337(c). If a bidder is found to have engaged in anti-competitive behavior in connection with its participation in the competitive bidding process, BOEM may reject the provisionally winning bid. Compliance with BOEM’s auction procedures and regulations is not an absolute defense to 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:

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

BOEM will decline to award a lease if the Attorney General, in consultation with the Federal Trade Commission, determines that doing so would be inconsistent with the antitrust laws 43 U.S.C. § 1337(c).

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see:

<http://www.justice.gov/atr/public/business-resources.html>, or consult counsel.

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 provisionally winning bidder. Within 10 business days after receiving the lease copies, the provisionally winning bidder must:

1. Sign the lease 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 bonus bid (winning bid less the bid deposit). BOEM requires bidders to use EFT procedures (not *pay.gov*, the website bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained in the “Instructions for Making Electronic Payments” available on BOEM’s website at:

<http://www.boem.gov/New-York/>.

BOEM will not execute a lease until the three requirements above have been satisfied, BOEM has accepted the provisionally winning bidder’s financial assurance pursuant to 30 CFR 585.515, and BOEM has processed the provisionally winning bidder’s payment.

BOEM may extend the ten business day deadline for executing the lease on the bidder’s behalf, filing the required financial assurance, and/or paying the balance of the bonus bid if it determines the delay was caused by events beyond the provisionally winning bidder’s control.

If the provisionally winning bidder does not meet these requirements or otherwise fails to comply with applicable regulations or the terms of the FSN, BOEM reserves the right to not issue the lease to that bidder. In such a case, the provisionally winning bidder will forfeit its bid deposit.

Within 45 calendar days of the date that the provisionally winning bidder receives copies of the lease, it must pay the first year's rent using the *pay.gov* Renewable Energy Initial Rental Payment form available at:

<https://pay.gov/paygov/forms/formInstance.html?agencyFormId=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:

<http://www.boem.gov/New-York/>.

NON-PROCUREMENT DEBARMENT AND SUSPENSION REGULATIONS:

Pursuant to regulations at 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 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 its contracts and other transactions.

FORCE MAJEURE: The Program Manager of BOEM's Office of Renewable Energy Programs has the discretion to change any auction details specified in the FSN, including the date and time, in case of a *force majeure* event that the Program Manager determines may interfere with a fair and proper lease sale process. Such events may include, but are not limited to: natural disasters (e.g., earthquakes, hurricanes, floods, blizzards), wars, riots, acts of terrorism, fire, strikes, civil disorder or other events of a similar nature. In case of such an event, BOEM will notify all bidders via email, phone, or through the BOEM website at: <http://www.boem.gov/Renewable-Energy-Program/index.aspx>.

Bidders should call 703-787-1320 if they have concerns.

APPEALS: The appeals procedures are provided in BOEM's regulations at 30 CFR 585.118(c) and 585.225. Pursuant to 30 CFR 585.225:

- (a) If BOEM rejects your bid, BOEM will provide a written statement of the reasons and refund any money deposited with your bid, without interest.
- (b) You will then be able to ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection, under 30 CFR 585.118(c)(1). We will send you a written response either affirming or reversing the rejection.

The procedures for appealing final decisions with respect to lease sales are described in 30 CFR 585.118(c).

PROTECTION OF PRIVILEGED OR CONFIDENTIAL INFORMATION:

Consistent with the Freedom of Information Act (FOIA), BOEM will protect privileged or confidential information that you submit. Exemption 4 of FOIA applies to “trade secrets and commercial or financial information that you submit that is privileged or confidential.” 5 U.S.C. 552(b)(4). If you wish to protect the confidentiality of such information, clearly mark it, “Contains Privileged or Confidential Information,” and 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 will be regarded by BOEM as suitable for public release. Further, BOEM will not treat as confidential aggregate summaries of otherwise confidential information.

AUTHORITY: This FSN is published pursuant to subsection 8(p) of the OCS Lands Act (43 U.S.C. 1337(p)) (“the Act”), as amended by section 388 of the Energy Policy Act of 2005 (EPAAct), and the implementing regulations at 30 CFR Part 585, including sections 211 and 216.

Dated: October 25, 2016.

Abigail Ross Hopper, Esq.
Director, Bureau of Ocean Energy Management
[FR Doc. 2016-26240 Filed: 10/28/2016 8:45 am; Publication Date: 10/31/2016]