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**BP America, Inc.**  
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Submitted via Federal eRulemaking Portal: <http://www.regulations.gov>

**RE: BP America Inc. Comments on the Bureau of Ocean Energy Management's Proposed Sale Notice for Atlantic Lease Sale 10 for Commercial Leasing for Wind Power Development on the Outer Continental Shelf Docket No. BOEM-2023-0062**

BP America Inc. ("bp")<sup>1</sup> is pleased to submit a response to the U.S. Bureau of Ocean Energy Management's ("BOEM") proposed sale notice ("PSN") for the Atlantic Lease Sale 10 ("Central Atlantic") offshore wind lease sale. bp is supportive of BOEM's continued and ambitious efforts to accelerate the offering of new offshore wind lease area sales and appreciates BOEM's willingness to improve the auction process to best achieve the Biden Administration's goals of deploying 30 GW of offshore wind by 2030, establishing a robust domestic supply chain and the creation of good-paying jobs.<sup>2</sup>

## **bp in America**

bp is investing in America's energy system as we transition from an international oil company to an integrated energy company. With \$150 billion invested in the US since 2005, we employ more than 30,000 Americans and support more than 275,000 jobs. We have a bigger footprint here than anywhere else in the world, and we're proud to be a trusted partner for secure, affordable and reliable energy.

We're transforming bp so we can deliver the secure, affordable, lower carbon energy the world increasingly wants and needs. bp's purpose is to reimagine energy

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<sup>1</sup> BP America Inc. is a subsidiary of BP plc. "bp" is used interchangeably herein to refer to BP America Inc., BP plc, another subsidiary, or the group of companies collectively.

<sup>2</sup> US White House, "FACT SHEET: Biden-Harris Administration Advances Offshore Wind Transmission, Strengthens Regional Supply Chain Buildout, and Drives Innovation." Sept. 21, 2023 <https://www.whitehouse.gov/briefing-room/statements-releases/2023/09/21/fact-sheet-biden-harris-administration-advances-offshore-wind-transmission-strengthens-regional-supply-chain-buildout-and-drives-innovation/>

for people and our planet. Our ambition is to become a net zero company by 2050 or sooner; and to help the world get there, too. We will aim to dramatically reduce carbon in our operations and in our production, and grow new low carbon businesses, products and services.

## Comments

In the December 12, 2023 PSN BOEM solicited comments on several aspects of the contemplated auction of two proposed lease areas (Lease Area A-2 and Lease Area C-1) in the Central Atlantic. bp is pleased to provide the following comments and suggestions:

### Department of Defense (DoD) and National Aeronautics and Space Administration (NASA) restrictions

bp acknowledges the potential conflicts between the proposed lease areas with DoD existing uses of the OCS and appreciates the efforts which have been undertaken by all stakeholders to manage these conflicts. However, following review of the PSN and draft leases, we have the following comments and suggestions:

*bp encourages BOEM to limit curtailment and radar mitigation requirements to the greatest extent possible, while managing other stakeholder risks*

The PSN and draft lease make reference to the potential for curtailment associated with the Advanced Dynamic Aircraft Measurement System (ADAMS) system off the coast of Norfolk, Virginia and associated with NASA operations. Curtailment of an offshore wind farm is a significant undertaking with both operational and economic impacts that can affect the financial viability of a project. As such, we recommend that mitigations other than curtailment are considered first and that any curtailment be limited to the greatest feasible extent. If curtailment is required, we request clarity as to the specific conditions when curtailment would be required, how often curtailment could be required, and how much notice would be provided before curtailment is required. We strongly encourage BOEM to include this information in the Final Sale Notice, as it can impact potential business decisions of Lessees.

Additionally, we request further clarification on the radar mitigation requirements referenced within the PSN. Specifically, we ask BOEM to provide details on the number of radar systems that may be impacted by proposed offshore wind operations and whether there are plans to install additional radar systems in the future. If a radar system requires future repairs we ask BOEM to clarify whether the developer would be liable to pay for repairs to that system.

*A 1,000 feet structure limit should not be included within the lease*

bp recognizes that the airspace above both proposed Lease Areas has a floor of 1,000 feet above sea level and we also acknowledge the potential for US Air Force operations in the airspace above the Lease Areas. However, we recommend not including the 1,000 feet limit within the lease documentation. The inclusion of the 1,000 feet limit within the lease documentation could limit the turbine technology available to developers. Upcoming turbine technology is likely to be close to or exceed 1,000 feet height. As an alternative, the US Air Force and developers can explore different options to enable offshore wind turbines and US Air Force operations to co-exist as there may be other solutions available or enabled through emerging technology.

We recommend that any further mitigations required to manage impacts to the US Air Force do not consider airspace restrictions below 1,000 feet as this would limit the available turbine technology that developers are able to utilize, severely impacting the financial viability of projects.

*BOEM should include a minimum notification timeline on restrictions related to NASA operations*

bp has reviewed the proposed restrictions related to NASA operations at Wallops Island. We acknowledge the proposed effort by NASA to provide as much advance notice as possible to developers on the need to suspend operations and/or evacuation of personnel. However, given the remote nature of operational activities at an offshore wind farm and the significant effort required to suspend operations bp recommends a minimum notification timeline for developers (e.g., 24 hours) be implemented to ensure that the developer has sufficient notice to evacuate personnel in a safe manner. We also suggest that the order for suspension should always be made by both oral and written notification, and that BOEM/NASA consider establishing a general notification email to go to Lessees.

### **Number of Lease areas, size and orientation of the Lease areas**

*bp recommends a single lease area within site A-2*

bp recommends having a single lease area within site A-2 with a minimum developable size of 80,000 acres. This would enable developers to build an economic scale project that will, in turn, enable developers to make greater investment in the US supply chain.

*bp recommends splitting site C-1 into two sites*

Lease area C-1 has sufficient area to potentially fit two projects with minimum size of 80,000 acres, and, as such, we recommend splitting area C-1 into two lease areas. In order to minimize wake effects, it is proposed that the lease area is split into western and eastern zones with an approximately even split by site area. A straight boundary running north-south aligned to federal blocks between

the lease zones in area C-1 would simplify the leasing and layout organization at the boundary between the leases.

### **Bidding credits**

*bp supports bidding credits for workforce training and/or offshore wind supply chain development and fisheries compensatory mitigation fund*

bp supports the proposed multiple-factor auction format and the proposed bidding credits for workforce training and/or offshore wind supply chain development and fisheries compensatory mitigation fund.

*bp supports well-crafted potential future bidding credits for conservation*

bp is supportive of measures to protect and enhance biodiversity in line with our biodiversity strategy, and as such, is supportive of the concept of a bidding credit to advance conservation for target species. However, any bidding credit created to advance conservation should be flexible enough to enable developers to decide on how the credit is apportioned and towards what conservation program rather than this being defined by BOEM. Any bidding credit should also acknowledge that it may be difficult to show “demonstrable benefit” to a species given the significant number of other factors which influence the success of species.

We recommend allowing developers to define how the credit would be apportioned through the submission of a conceptual strategy and subsequent development plans following lease award.

### **Limits on the number of lease areas per Bidder**

bp supports a “one-per-customer” rule for this auction, which would maximize developers’ flexibility to switch between leases and ensure that the lease areas get awarded to multiple bidders.

### **National Security Stipulations related to foreign interest**

bp understands and appreciates the considerations raised by the Department of Defense (“DOD”) regarding foreign direct investment in the United States. bp has no objection to submitting a filing to the Committee on Foreign Investment in the United States (“CFIUS” or “Committee”) consistent with the Committee’s jurisdiction over the lease transaction, but we believe that DOD’s desire for CFIUS review is likely based on the Committee’s jurisdiction over certain real estate transactions. If so, the reference in Section 4.5 of the draft lease to “31 CFR part 800” may need to be changed to or include reference to “31 CFR part 802,” because the CFIUS regulations pertaining to filing based on real estate jurisdiction are for the most part contained in part 802.

bp also does not object to submitting a CFIUS filing in the form of a Declaration pursuant to subpart D (whether of Section 800 or 802) as proposed by BOEM, rather than a Joint Voluntary Notice (“JVN”) pursuant to subpart E. Indeed, filing a Declaration rather than a JVN is a frequent course of action for transactions and foreign parties that are unlikely to present national security concerns. However, bp notes that although CFIUS may conclude action with respect to a Declaration, it also has three other options: 1) request that a subsequent JVN be filed; 2) initiate a unilateral full review of the transaction; or 3) simply not conclude action. If CFIUS does not conclude action, although parties at their discretion may choose to file a subsequent JVN, they may also elect to proceed with the transaction with no further CFIUS review, because by not concluding action – rather than requesting a JVN or initiating a unilateral full review – CFIUS is generally understood to not have national security concerns about the transaction. Accordingly, bp proposes modifying Section 4.5 of the draft lease to state the approval of any assignment of lease interest may conclude only after any of the following three CFIUS outcomes: 1) CFIUS concludes action on the Declaration; 2) CFIUS does not conclude action on the Declaration, but also does not request a JVN or initiate a unilateral review; or 3) CFIUS requests a JVN be filed or initiates a unilateral review subsequent to the Declaration, and then concludes action on that further review.

### **Second Central Atlantic lease sale**

We welcome BOEM’s proposition to undertake a second Central Atlantic lease sale and we encourage BOEM to move expeditiously to identify WEAs for a second leasing round. We encourage BOEM to maximize the acreage available as part of a second lease sale, particularly the availability of fixed bottom acreage.

For the second Central Atlantic lease sale we recommend carrying out a programmatic EIS ahead of the lease sale as has been undertaken for oil and gas leasing sales in the Gulf of Mexico. A programmatic EIS approach would result in resource efficiencies for all stakeholders and undertaking the EIS pre-lease sale would reduce permitting risk for the sites within the lease sale.

### **Conclusion**

We appreciate the opportunity to submit these comments and welcome the opportunity to further discuss these issues with BOEM if necessary. Please contact Isabel Mogstad at [Isabel.mogstad@bp.com](mailto:Isabel.mogstad@bp.com) if you have any questions.

Sincerely,

/s/ Isabel Mogstad

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