

# NY, NJ Lease Auctions Highlight US Push For Offshore Wind

By **Nathan Howe, David Wochner and Ankur Tohan** (February 10, 2022)

The flurry of wind power activity off the Eastern Seaboard continues, as the U.S. Department of the Interior's Bureau of Ocean Energy Management recently announced it will hold an auction Feb. 23 to lease six new areas for offshore wind development in the New York Bight.

The lease areas will be located off the coasts of New York and New Jersey, and will comprise 488,201 total acres. Such acreage should be sufficient to develop an estimated 5.6 gigawatts of new offshore wind capacity — enough to power nearly 2 million homes.

The six new lease areas will add to the 18 existing lease areas for offshore wind development that currently exist off the East Coast. Continuing this momentum, BOEM intends to conduct several more auctions that will open up new lease areas along the West Coast and in the Gulf of Mexico, and the agency is already advancing environmental reviews to support those areas.

BOEM's recent and planned future activities demonstrate the Biden administration's commitment to developing the U.S. offshore wind industry. Developers interested in the New York Bight should be mindful of upcoming deadlines for auction participation.

And those interested in lease areas in regions other than the East Coast should monitor BOEM's environmental assessment processes, as they progress toward future auctions elsewhere.

## **BOEM's Development of the New York Bight Lease Areas**

BOEM's New York Bight announcement has been more than three years in the making. On April 11, 2018, BOEM issued a call for commercial leasing for the New York Bight area, which included more than 1.7 million acres for consideration.

Over the next few years, BOEM received stakeholder input and consulted with various agencies, and on March 26, 2021, issued an identification memorandum that identified more than 800,000 acres across five wind energy areas in the New York Bight. On June 14, 2021, BOEM issued a proposed sale notice for public comment that refined the wind energy areas to encompass 627,331 acres.

On Dec. 21, 2021, BOEM issued its final sale notice decisional memorandum that describes the final selection of lease areas, parameters for the auction format, and proposed stipulations to be included in the lease agreements. BOEM again reduced the total acreage that will be available for lease, to 488,201 acres.

This tailors the lease area boundaries to reduce impacts to the fishing industry, and to accommodate shipping navigation and requests by the U.S. Coast Guard. The final lease areas are shown in the map below:



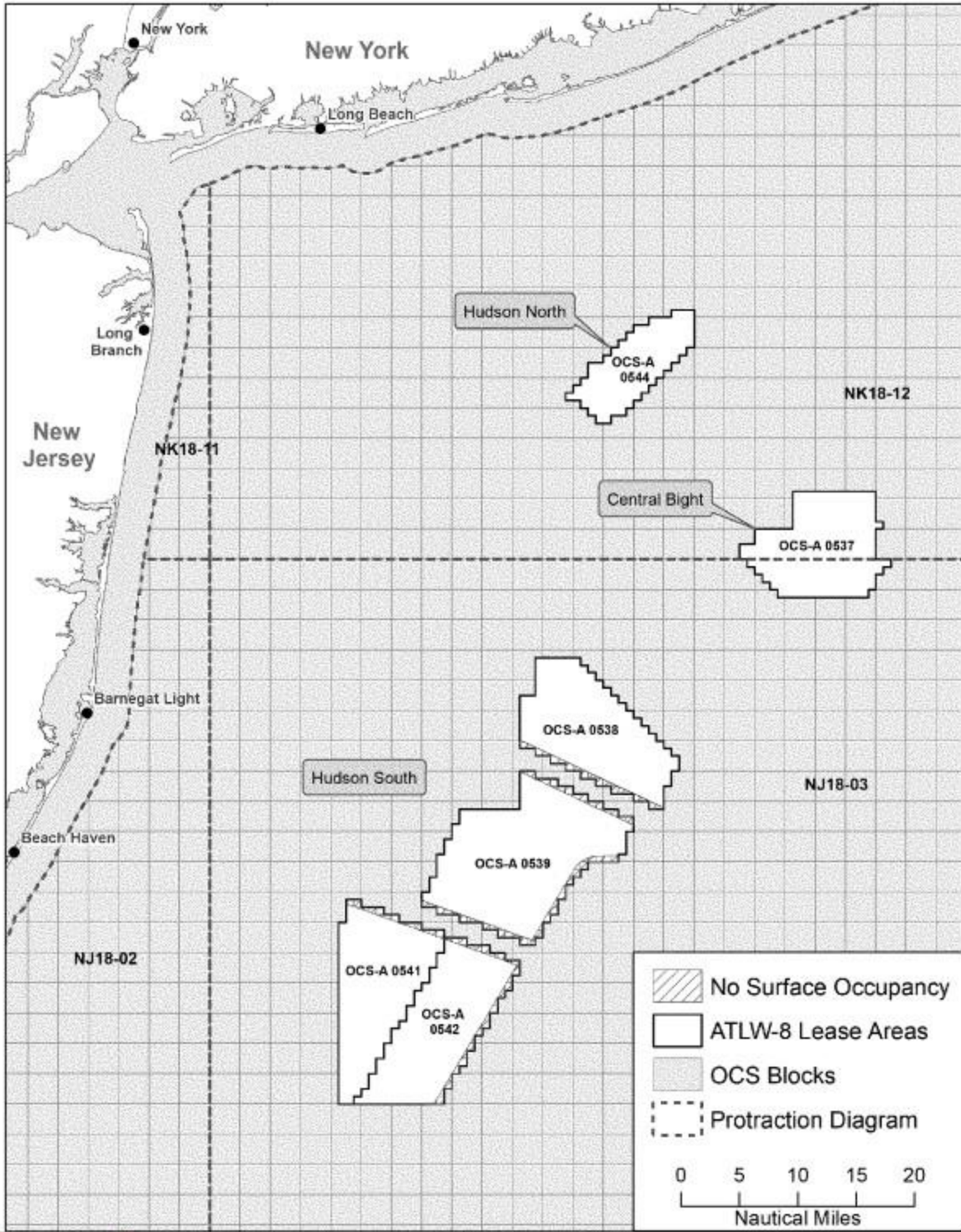
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On Jan. 14, the final notice of sale was published in the Federal Register, including some new rules. Under BOEM's new auction format, bidders will be limited to winning only one lease area. Only one affiliated entity is permitted to participate, and affiliates may not compete against each other.

New recommended lease stipulations include requirements that developers enter into project labor agreements to pay laborers at prevailing wage rates; engage in community outreach with local tribes, the fishing industry and ocean users; and describe planned domestic supply chain activities and investments.

BOEM further recommends that incentives be made available in the form of operating fee credits for developers that use locally manufactured components.

Bidders should act now, as there are fast-approaching deadlines. The timeline leading up to the auction is as follows:

- Jan. 26: Bidders were required to submit a bidder financial form.
- Feb. 9: Bidders were required to make an initial deposit of \$5 million.
- Feb. 18: BOEM will conduct an online mock auction.
- Feb. 23: BOEM will conduct the monetary auction.

### **Litigation by Local Residents**

While BOEM's New York Bight announcement marks another significant milestone for the offshore wind industry, there is already litigation from a group of local residents who oppose offshore wind development in the New York Bight.

On Jan. 10, Save Long Beach Island, a group of individuals claiming to be within the viewshed of the proposed New York Bight Wind Energy Areas, filed a complaint in the U.S. District Court for the District of Columbia alleging that BOEM was required to conduct an environmental assessment and prepare an environmental impact statement before its March 26, 2021, identification memorandum.

In public statements, the group has said that its members' concerns relate primarily to aesthetic impacts, similar to concerns voiced by other coastal communities that have opposed proposed offshore wind project sites along the East Coast over the past several years.

### **BOEM's Recent Approvals and Near-Term Plans**

BOEM's auction announcement follows a trend of increased federal interest in promoting offshore wind development.

BOEM must first complete an environmental review process before leasing federal waters and approving any specific project. On Jan. 11, the agency advanced an environmental review evaluating potential impacts of offshore wind development in the Humboldt Wind Energy Area off the Northern California coast, with Feb. 10 being the deadline for public

comments.

BOEM is currently working with Oregon agencies to identify call areas off of the Oregon coast, and could make an announcement for further study of these areas soon. BOEM also announced it plans to study a 30-million-acre area of the Gulf of Mexico between Louisiana and Mexico for potential wind energy areas.

Once the review is complete, BOEM is planning additional auctions for offshore wind lease areas in federal waters off the Carolinas, the Gulf of Mexico and the West Coast of the U.S. For context, BOEM's most recent auction occurred in December 2018, and included 390,000 acres off the coast of Massachusetts. That auction resulted in an award of three lease areas for \$405 million.

In the last year, BOEM has approved the construction of two projects in federal waters off the coasts of Massachusetts and New York. In May 2021, BOEM approved the construction of the nation's first commercial-scale offshore wind farm off the coast of Massachusetts. More recently, in November 2021, BOEM issued its second approval for the construction of a project off Long Island, New York.

BOEM anticipates that it will review as many as 16 additional construction and operations plans for other commercial-scale projects by 2025.

### **Other Recent Offshore Wind Developments on the East Coast**

The upcoming New York Bight auction also follows several other noteworthy offshore wind developments along the East Coast by states. On Dec. 17, 2021, Maryland and Massachusetts each selected two new offshore wind project applications apiece, adding another 3.2 GW of proposed offshore wind development along the East Coast.

These projects have committed to making substantial investments in local port infrastructure and component manufacturing, operations and maintenance facilities. Before selecting these projects, there was already a pipeline of approximately 14 GW in commitments for offshore wind projects along the East Coast.

The states of New York and New Jersey also very recently announced significant offshore wind commitments. On Jan. 17, the New York State Energy Research and Development Authority announced that it has finalized purchase and sale agreements for offshore wind renewable energy credits generated by the Empire Wind 2 and Beacon Wind 1 projects. Both projects were selected as part of New York's second-round solicitation in January 2021, and executed procurement awards that commit them to build 2.49 GW of offshore wind.

On Jan. 5, New York Gov. Kathy Hochul announced her state's intent to invest an additional \$500 million in ports, manufacturing and supply chain infrastructure to support offshore wind. This recent investment builds upon the \$200 million that New York allocated to port infrastructure in 2020. By leveraging this initial \$200 million investment, New York was able to garner an additional \$644 million of investment through private funding.

Meanwhile, in July 2021, New Jersey completed its second-round offshore wind solicitation and selected two projects that have proposed to build 2.658 GWs of offshore wind generation.

New York and New Jersey have set targets to develop 9 GW and 7 GW of offshore wind

capacity, respectively, for a total of 16 GW by 2035. Currently, New York and New Jersey have combined project commitments of approximately 8.05 GW. The availability of new federal lease areas is critical to achieving the remainder of New York's and New Jersey's goals.

### **Other BOEM Developments**

In January, BOEM also announced the signing of an interagency memorandum of understanding with the National Oceanic and Atmospheric Administration to advance offshore wind while ensuring cooperative use of the outer continental shelf and protecting marine biodiversity.

The memorandum will serve as a framework for the interagency cooperation on offshore wind siting, permitting construction and operation, specifically outlining the agencies' "commitments to identify areas on which they can better coordinate, proactively refine administrative procedures, implement efficiencies in their mission areas, and specify mechanisms for cooperation and communication."

Also in January, BOEM announced that it would hold its second Intergovernmental Renewable Energy Task Force meeting virtually for the Gulf of Mexico on Feb. 2. The partnership between federal, state and local agencies and tribal governments is a critical step to advancing the development of renewable energy resources on the outer continental shelf in the Gulf of Mexico.

BOEM outlined that the task force's intention is "to identify potential areas that may be suitable for offshore renewable energy development in federal waters of the Gulf of Mexico, and provide critical information to the offshore renewable energy development decision-making process." Specifically, the Feb. 2 meeting was intended to:

- Update the task force and stakeholders on recent activities.
- Discuss the request for information and call areas and solicit additional feedback on the call areas.
- Provide an overview of and seek in-depth feedback on the environmental review process.
- Discuss the Wind Energy Area process.

The task force's meeting was open to the public.

### **Conclusion**

The availability of the New York Bight lease areas represents a significant step toward achieving the Biden administration's target of 30 GW of offshore wind capacity by 2030. The

additional lease areas are also necessary for New York and New Jersey to achieve their own ambitious offshore wind targets of over 16 GW by 2035.

These lease areas are yet another indication that the offshore wind industry on the East Coast is maturing quickly. BOEM's efforts to better coordinate with other federal agencies, and its plans for future lease auctions along the West Coast and in the Gulf of Mexico, demonstrate the Biden administration's commitment to moving the nascent offshore wind industry forward in the U.S.

Interested bidders should act now to ensure they meet all required deadlines to participate in the upcoming auction. More broadly, industry stakeholders should take notice of the accelerating momentum of the offshore wind industry in the U.S.

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