

Locke Lord QuickStudy: Survive and Advance: BOEM's Gulf of Maine Leasing Process Makes It to the Next Round, but Can It Reach the Finals in 2024?

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Of the four lease sales the Bureau of Ocean Energy Management (BOEM) expects to hold this year, the Gulf of Maine is shaping up to be the Big Dance. With some of the strongest winds on the East Coast, the Gulf of Maine is close to major population centers with growing energy needs, high utility rates, and ambitious offshore wind deployment goals. As a result, the region has long been viewed by the offshore wind industry with avid commercial interest. But potential bracket-busters are lurking: the Gulf of Maine has deeper waters than other offshore wind hubs off Southern New England, the New York Bight, and the Mid-Atlantic, which will likely require the use of floating wind technologies that have only recently been commercialized. Additionally, the region is home to both a robust and powerful commercial fishing industry and the summer breeding grounds for the highly endangered North Atlantic Right Whale (NARW).

On March 15, BOEM took a crucial step toward a Gulf of Maine lease sale by [issuing final Wind Energy Areas](#). BOEM is now in a race against the clock to ensure it can advance through the remaining rounds of its leasing process – proposed sale notice (PSN), final sale notice (FSN), NEPA analysis, and auction— in time to execute leases by December 20, 2024. This time limit was established in the Inflation Reduction Act, which allows offshore wind leases to occur only in a window of one year after the most recent offshore oil and gas sale; the most recent leases were [held on December 20, 2023](#).^[1] If BOEM misses this deadline, its next opportunity to issue offshore wind leases in the Gulf of Maine (or anywhere else) could depend largely on when the next oil and gas lease sale occurs^[2] – as well as the results of the November election.

The Gulf of Maine WEA is notable for both its large size and what it doesn't contain. BOEM began its deconfliction process in the Gulf of Maine by [requesting information from the public on virtually the entire Gulf](#), issued a [Call for Information](#) seeking additional data on an area 29% smaller than the initial area, and sought further comment on a draft WEA representing a 64% reduction in the Call Area. The final WEA contains just over 2 million acres with an estimated installation capacity of 32 GW, representing a reduction of 43% from the draft WEA and 80% from the original Call Area. Notably, BOEM excluded the following areas from the final WEA:

- All portions of the draft WEAs that overlap with Lobster Management Area 1.^[3] This area comprises a wide swath of ocean whose shallower waters and proximity to shore may have resulted in lower development costs, but which has become a political flash point. BOEM appears to have responded to [input from Maine Governor Janet Mills, much of Maine's congressional delegation, and the Maine lobstering industry](#) by removing this area

from consideration for the time being.

- Areas that produce the top 10% of revenue for the multispecies groundfish fishery, largely in response to concerns raised by the Commonwealth of Massachusetts.^[4]
- NARW Restricted Areas, as well as a NARW Corridor identified by the National Marine Fisheries Service (NMFS).^[5]

We expect that BOEM will make additional reductions to the final WEA between now and the Gulf of Maine lease sale. As BOEM [acknowledges](#), 32 GW of energy generation potential “surpass[es] current state goals for offshore wind energy in the Gulf of Maine: 10 GW for Massachusetts and 3 GW for Maine.” As a result, BOEM notes, “the size of the Final WEA will allow BOEM to consider additional deconfliction, while also supporting the region’s renewable energy goals and the potential for multiple lease sales, as BOEM continues to evaluate a phased leasing approach.”

While BOEM’s planned 2024 Gulf of Maine sale will be restricted to acreage within the final WEA, BOEM explicitly leaves the door open for potential future leasing in areas that were excluded from the final WEA, but within the initial Call Area.^[6] In explaining this flexible approach, BOEM stated that it “may receive new information in the coming years that shifts the bureau’s analysis on the relative suitability of unleased areas within the Call Area (e.g., shifting distributions of protected species and/or species of fishing interest; new seafloor mapping data).” BOEM’s recognition of the dynamic nature of the ocean in an era of accelerating climate change is particularly salient in the [rapidly warming Gulf of Maine](#). To put it in terms that fans of March Madness may appreciate, making regulatory decisions based on historic ocean data is the equivalent of passing the ball to where your teammate stood a few seconds ago, and not where they are cutting.

In that spirit, BOEM should consider two other potential future conditions in deciding how many acres to lease in the Gulf of Maine in 2024:

- While Massachusetts and Maine’s current regional offshore wind goals tally up to 13 GW, these targets are likely to increase substantially as load demand rises, New England states continue to decarbonize, and offshore wind development costs decline.
- As referenced above, additional phases of Gulf of Maine leasing from 2025-2029 could depend on the November presidential election results. We note that the Trump Administration paused all offshore wind leasing in 2019 and 2020.

Concurrent with its final WEA, BOEM also issued a [Notice of Intent \(NOI\) to prepare an Environmental Assessment \(EA\) for leasing in the Gulf of Maine](#). The EA will review just the final WEAs, a narrower geographic scope than BOEM’s approach in the Gulf of Mexico, in which it [conducted an EA on the entire Call Area](#). This “landscape EA” approach has enabled BOEM to pivot quickly to a second offshore wind lease sale in the Gulf of Mexico; considering BOEM’s intent to conduct multiple Gulf of Maine sales, we would urge BOEM to adopt the Gulf of Mexico approach and analyze leasing in the entire Call Area in its upcoming EA. The public has until April 17 to comment on the NOI.

When BOEM issues its PSN in the next few months, we’ll learn exactly how many leases BOEM proposes to put up for auction within the Final WEA. For developers and investors (or clean energy advocates simply filling out their offshore wind leasing brackets), the rest of 2024 is sure to be action-packed right up to the December 20 final buzzer.

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[1] 43 U.S.C. § 3006(b)(2).

[2] The most recent 5-year offshore oil and gas plan indicates the next sale will occur sometime in 2025. See BOEM, *National OCS Oil and Gas Leasing Program*, available [here](#).

[3] Gulf of Maine Area Identification Pursuant to 30 C.F.R. § 585.211(b) ("Area ID Memo") at 19, available [here](#).

[4] *Id.* at 14-15.

[5] *Id.* at 19.

[6] *Id.* at 20.

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