



Oregon

Tina Kotek, Governor

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Pacific Regional Director
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Action: Leasing of the Outer Continental Shelf for Offshore Wind Energy
Exploration and Site Assessment Surveys

Agency: U.S. Bureau of Ocean Energy Management

Location: Two Wind Energy Areas in Southern Oregon (Brookings and Coos Bay)

DLCD Decision: **Concurrence with Conditions**

Dear Mr. Boren,

The Oregon Coastal Management Program of the Department of Land Conservation and Development (OCMP) has reviewed the Consistency Determination for the proposed action by the Bureau of Ocean Energy Management (BOEM) to issue leases for purposes of offshore wind energy exploration on the Outer Continental Shelf off the coast of Oregon. This action is evaluated under 15 CFR part 930, subpart C, for federal agency activities.

The Department of Land Conservation and Development (DLCD) is the state's designated coastal zone management agency, and the OCMP conducts reviews of consistency determinations to ensure that federal activities affecting any coastal use or resource are consistent with the enforceable policies of the coastal program (Program). Federal actions include federal agency activities as well as federal projects that require federal licenses or permits. To be consistent with the enforceable policies of the OCMP, federal activities must be consistent with:

- 1) Oregon's Statewide Planning Goals;
- 2) Applicable acknowledged city or county comprehensive plan; and
- 3) Selected state authorities (*e.g.*, water quality, archaeological resources, and fish & wildlife protections).

The outcome of an OCMP review of a federal agency's Consistency Determination may be that 1) the state agrees that the proposed leasing action and studies are consistent; 2) the state agrees that the proposed actions may be found consistent if certain conditions are met; or 3) the state objects to the action based on its inconsistency with specific enforceable policies of the state coastal program.

PROPOSED FEDERAL AGENCY ACTIVITY

Under the Consistency Determination submitted to the OCMP by BOEM, consistent with 15 CFR part 930, subpart C, BOEM proposes to issue leases within the designated Oregon Wind Energy Areas (WEAs) for the purposes of exploring offshore wind energy development projects. As described in the Environmental Assessment (EA) and Consistency Determination (CD) documents prepared by BOEM and provided to the OCMP, the Proposed Action subject to the state's review is:

- The issuance of one commercial wind energy lease and associated easements within the Coos Bay Wind Energy Area (WEA) and one lease and associated easements within Brookings WEA. The issuance of a lease only grants the lessee the exclusive right to conduct site characterization activities and to submit to BOEM a Site Assessment Plan (SAP) and/or a Construction and Operations Plan (COP) at a future date. Specific cable corridors are not proposed as part of this action.
- A reasonably foreseeable effect of the issuance of the leases is that lessees would conduct environmental and site characterization activities in the lease areas and on the Outer Continental Shelf, such as vessel surveys, geotechnical exploration of the seafloor, and placement of anchored meteorological buoys (*see next section for further discussion*).

The BOEM Consistency Determination covers those actions within BOEM jurisdiction – namely, the activities that would be subject to the lease and occur on the Outer Continental Shelf outside of the state territorial sea boundary of three nautical miles offshore. However, the state also expects that lessees would conduct characterization activities within state waters, estuaries, or potentially onshore as activities initiated by a BOEM lease decision. Actions outside of BOEM jurisdictional authority will be addressed by applicable federal, state, or local authorities. These actions may require other federal licenses or permits, such as from the US Army Corps of Engineers, and may be subject to separate future Federal Consistency reviews under 15 CFR part 930, subpart D.

Additional details about the proposed action and its effects may be found in the EA and CD. BOEM also issued a Proposed Sale Notice (PSN) with additional information regarding the specifics of its proposed lease stipulations, available on the [BOEM website](#).

Under the reasonably foreseeable scenario, BOEM has stated it could issue leases in late 2024 and surveys could begin in spring of 2025. lessees would have up to five years to perform site assessment activities before they must submit a COP. BOEM expects site assessment activities could continue through early 2030 prior to a lessee submitting a COP to BOEM.

A BOEM decision to lease areas of the Outer Continental Shelf for offshore wind characterization and exploration activities does not equate to a decision to permit the construction or operation of an offshore wind development project. A subsequent BOEM decision whether to approve a Construction and Operations Plan for an actual wind energy facility would be subject to Federal Consistency review by the state at a later time under subpart D, after years of additional site assessment and project design.

Effects of the Department of Interior Renewable Energy Modernization Rule on this Review

On May 15, 2024, while this federal consistency review was underway, BOEM issued a notice in the Federal Register¹ that it had finalized the Renewable Energy Modernization Rule (REMR). The REMR enacts amendments to the Department of Interior’s renewable energy regulations under the authority of the Outer Continental Shelf Lands Act (OCSLA), which are carried out by BOEM and the Bureau of Safety and Environmental Enforcement (BSEE). Through subsequent conversations with BOEM, the OCMP understands that these amendments will apply to the leasing action under this federal consistency review and impact the associated conditions.

Perhaps the most significant change affecting this review is the change to regulatory requirements for meteorological (met) buoys. Under the pre-existing regulations, all met buoy placement required a Site Assessment Plan (SAP) and BOEM permitting, which were subject to the consistency review and could therefore have state conditions placed upon them to achieve consistency to the maximum extent practicable with enforceable policies. Under the REMR, however, the requirement for SAPs and BOEM permitting for met buoys has been eliminated. The rationale for this change, as described in the Federal Register, is that the US Army Corps of Engineers already has the authority to permit met buoys under Section 10 of the Rivers and Harbors Act (RHA), so the BOEM requirements were viewed as overlapping and duplicative. The final rule also notes that the USACE may incorporate its own decommissioning requirements in permits applicable to met buoys, but BSEE's decommissioning requirements in 30 CFR Part 285 will apply to met buoys if the USACE has not required a decommissioning obligation.

During this federal consistency review, BOEM worked with the OCMP, within the confines of its amended oversight role, to address concerns and proposed conditions related to met buoy placement, safe operation, and retrieval. The OCMP appreciates BOEM’s willingness to collaborate to navigate this new change to the system of regulatory interactions in a mutually agreeable manner. The state will continue to coordinate with BOEM and the USACE as this process unfolds and seek cooperative avenues to address any future concerns.

CONSISTENCY FINDINGS

OCMP evaluated the Consistency Determination against Oregon’s federally approved enforceable policies and has determined that the federal agency activity is consistent with the Program if the conditions included in this decision are met. Key review findings include:

- Limited Scope of Concurrence – The actions and effects evaluated under this review are limited to only leasing and survey and site characterization activities within the lease areas and between the lease areas and shore within federal waters for the purposes of determining feasibility and viability of the construction of floating offshore wind facilities. Applications for the construction and operations of a project shall be subject to federal consistency review at a later time.
- Best Management Practices (BMPs)– As described in the Environmental Assessment,

¹ <https://www.federalregister.gov/documents/2024/05/15/2024-08791/renewable-energy-modernization-rule>

Appendix D and in the Biological Assessment that accompanies the Essential Fish Habitat consultation with the NOAA National Marine Fisheries Service, BOEM will require lessees to observe all listed Best Management Practices and Project Design Criteria, which are intended to protect ocean species and habitats from potential harm due to vessel operations and survey activities. The OCMP reviewed these proposed practices and, where necessary, reached agreement with BOEM on additional modifications that would make the actions more protective in alignment with the enforceable policies of the state coastal program.

- Seafloor Disturbance Minimization – The Consistency Determination states the area of direct disturbance to the seafloor will be of a limited size (approximately 10m), but it acknowledges that the accuracy of bottom contacting activities depends on several factors. The area of other indirect effects are not certain. Oregon has policies implementing Goal 19 applicable to the Ocean Stewardship Area that establish buffer areas for effects from subsea structures to important, sensitive, or unique habitat features, including rock substrates. This decision includes conditions related to protective seafloor buffer areas from bottom-disturbing activities and the removal of all anchors and survey equipment to the maximum extent practicable, consistent with the requirements of federal permits, as a means to avoid and minimize effects to these habitats consistent with Goal 19.
- Acoustic Effects – The Consistency Determination excludes consideration of high-energy survey equipment (e.g., air guns or water compression devices that produce acoustic energy). Through further discussions with BOEM, the OCMP clarified the process BOEM uses during survey plan reviews to verify that the use of low-energy equipment (e.g., sonar, sub-bottom profilers, sparkers) verifies that the maximum disturbance distance to mammals and sea turtles will not exceed the reasonable maximum observational distance of Protected Species Observers on vessels. Appendix D of the Environmental Assessment details shutdown procedures that would apply whenever a protected species is observed. Based on these discussions, and in consideration of BOEM’s consultation with NOAA NMFS, the OCMP determined that no further conditions are necessary to meet enforceable policies of the state coastal program.
- Coordination with Fishing Communities – The BOEM lease proposal includes several measures that would require and guide engagement and coordination with fisheries users. The OCMP reviewed these measures and found them to represent overall good practices. The conditions included with this decision specify additional measures to improve regional fisheries coordination with lessee activities, minimize adverse effects to fishing operations and equipment, and minimize potential risks related to secondary gear entanglement of marine species.
- Archaeological Resource Protection – BOEM has included requirements for lessees that would be applicable to geotechnical surveys, including a requirement for geophysical (non-contact) surveys to always precede geotechnical work, an inadvertent discovery protocol, and pre-survey meetings between lessees and Tribes. The OCMP considered these measures relative to Oregon statutes pertaining to the avoidance of disturbance of archaeological resources and human remains and sought specific input from the State Historic Preservation Office (SHPO) and four coastal Tribes during the course of the review. This decision includes conditions that would make BOEM’s procedures consistent

with Oregon's archaeological protection policies to the maximum extent practicable.

- Structure for Ongoing Coordination and Partnership - During the review, BOEM worked with the OCMP to agree to additions to their process for reviewing survey plans, vessel activities, and data products to include state involvement and input. These modifications provided essential assurance that future lessee survey activities will consider state interests in ocean resource and use protection and will be forward-looking to support the state's information needs during a potential future Construction and Operations Plan review.

This Consistency Determination review is, by necessity of the scope of the action presented by BOEM, focused on whether the survey actions that would follow leasing may be found consistent with the state's enforceable policies. These policies include Oregon's statewide planning goals and standards for protection of ocean resources and wildlife, environmental quality, optimum benefits from commercial and public use of food fish, and archaeological resources.

The survey activities described under the action are not dissimilar from the scientific and mapping exploration conducted by other government agencies and universities, and vessel operations are not dissimilar from existing vessel traffic from commercial, recreational, and industrial vessels. This is evidenced by the myriad existing BMPs that BOEM has been able to draw upon to set standards for site characterization actions. The difference in this federal action is that the activities would be the direct result of the issuance of leases and thus constitute a discrete campaign of significant new volume of activity in the ocean.

BOEM has offered the state a framework to guide these proposed actions, including communication plans with fishing communities, Tribes, and affected communities; specific protocols directing vessel conduct and study parameters in order to minimize harm to species and habitats in the ocean; and survey coordination plans with the state. The OCMP has considered this proposed framework and evaluated it against the enforceable policies of the state coastal program that apply to such actions.

In this decision, the OCMP concurs with BOEM's determination that the proposed action will be consistent, provided that BOEM agrees with and adheres to the conditions included herein. OCMP developed the conditions through consultation with many parties – including networked agencies, tribal governments, and local governments – and expanded upon by more than 200 oral and written comments the OCMP received during our public comment period. Additionally, the OCMP consulted with four coastal tribal nations, upon their request, and received oral and written comments that are further reflected in the conditions to the extent applicable under the enforceable policies of the coastal program.

Under the CZMA, the conditions placed on concurrences are not enforceable by the state after the consistency decision, and therefore BOEM must agree to implement the conditions. If BOEM does not agree to a condition contained in this decision, BOEM must immediately notify the OCMP if the conditions are not acceptable. If BOEM does not accept the state's conditions, it should treat this conditional concurrence as an objection; BOEM can proceed over the state's objection on the assertion that it believes it is consistent to the maximum extent practicable with the enforceable policies of the coastal program OR it can continue to coordinate with the state to reach an agreeable condition.

BOEM has not included future survey work within the state jurisdictional boundary (3nm offshore) and landward in its Consistency Determination for this federal agency activity, although it is reasonably foreseeable that such work would occur as a result of leasing. This review also does not cover any cable corridor siting in federal or state waters, as that decision would be part of a future COP review and would be subject to separate federal consistency review processes.

The decision to exclude in-state survey activities from the review scope was based on the rationale that BOEM's regulatory authority is limited to the Outer Continental Shelf, and therefore BOEM cannot approve site assessment or characterization activities in State waters or onshore areas. The OCMP acknowledges that BOEM's jurisdiction is limited to federal waters but believes that a review of the full suite of effects of the proposed actions would have provided a better means to review leasing in its full context, ensure consistent lessee behavior, and reduce public and state agency confusion. Despite this disagreement, the state has limited its review to the proposed actions that would take place in federal waters and their resultant effects within state jurisdiction. This review decision is therefore limited to those activities covered under BOEM's authorities within federal waters and does not apply to any survey activities within state waters. The state has not been provided sufficient information to make any determination for any survey activities within state waters. However, the OCMP expects that certain conditions applicable to this action would also apply to vessel transit activities within state waters, such as vessel speed limits and the use of species observers.

The OCMP understands that future bottom-contacting survey actions in state waters will be subject to federal consistency review through US Army Corps of Engineers (USACE) permits, alongside Oregon Department of State Lands (DSL) permits, and actions onshore would be covered under various state and local permits and authorizations. The OCMP recommends that for future leasing actions under the new REMR, BOEM consider pursuing a joint agency federal consistency review that includes the US Army Corps of Engineers role in permitting met buoys and activities within state jurisdictional boundaries.

Because this reviewed action is limited to the leasing and the associated site characterization activities, the state will have a second opportunity to conduct a federal consistency review before BOEM could approve a lessee's Construction and Operation Plan. This conditional concurrence decision for the leasing action in no way precludes the state's ability to object to a future offshore wind project proposal within the lease areas based on an inability to meet the standards of the state's enforceable policies or a lack of sufficient information to make a responsible, risk-aware decision. If lessees fail to develop their leaseholds, they may be canceled voluntarily or by BOEM, consistent with their regulations.

The OCMP advises that if lessees are to succeed in bringing offshore wind projects to federal waters off Oregon, it is crucial for them and BOEM to immediately begin working closely with the state, local governments, affected communities, Tribes, and the scientific community toward the resolution of the many questions and concerns that have been identified throughout the BOEM siting process and this review. Further, any obligations or agreements not honored during the survey phase would undermine the trust that is a necessary aspect of the state's willingness to proceed.

The State of Oregon is committed to pursuing renewable energy alternatives to achieve our emissions reduction goals and decarbonize the power generation system. Offshore wind is one such alternative. As BOEM moves forward with its leasing action, we encourage its continued support of studies and potential leasing opportunities in other potentially more suitable offshore areas, including areas north of the current Wind Energy Areas and on the abyssal plain farther offshore where space-use conflicts, species interactions, and overlap with sensitive benthic habitats are expected to be less significant. We also encourage BOEM to continue participating in the broader planning efforts related to grid infrastructure improvements, shoreside development, technological advancement, and socioeconomic capacity-building that are also necessary for the growth of the offshore wind industry. It is reasonable to prepare for the eventuality that one or both of these lease areas will not prove feasible to develop, but the work may still continue to find new potentially suitable areas through an ever-improving process.

Public Comment Opportunity and Public Meetings

Consistent with the requirements of 15 CFR 930.42, the OCMP published a public notice including the BOEM Consistency Determination and initiated a 45-day comment period. Additionally, the OCMP hosted a virtual webinar and four in-person public meetings in Brookings (72 attendees), Coos Bay (54 attendees), Florence (37 attendees), and Newport (33 attendees). The purpose of these meetings was to describe the BOEM proposed action, explain the state's federal consistency role, answer clarifying questions about the state's review, and receive oral comment from meeting attendees. OCMP recorded and transcribed public comment for internal review purposes to inform this review. In total, the OCMP received more than 200 written and oral comments. This section includes summaries of comment areas and OCMP responses to comment themes. The written comments received during the comment period are included in an Attachment to this decision letter.

The OCMP also provided notification of the federal consistency review to the nine federally recognized Oregon Tribes and offered to consult on the review. The OCMP met with four coastal Tribes, upon their request, to answer questions and receive feedback regarding the Consistency Determination and leasing process.

Specific or Thematic Comment Responses

Comments in support of the proposed action

Comments in support of finding the proposed action consistent with the enforceable policies of the coastal program focused on key areas, including Oregon's renewable energy policies, the need to proactively respond to climate change and decarbonize the energy system in Oregon, and the economic opportunities and job creation expected to result from offshore wind energy development. Some comments also expressed support for the measures described in the BOEM Consistency Determination to minimize adverse effects to species, habitats, and other ocean users such as the fishing industry and suggested that additional conditions should not be required.

Completion of the Oregon Offshore Wind Roadmap should precede any leasing or survey activities

Many comments expressed that the leasing of offshore areas for offshore wind exploration should not proceed until the state has completed the Offshore Wind Roadmap process required under HB 4080, Oregon Laws 2024, chapter 31, which was passed by the Legislature and signed by Governor Kotek in 2024. Some comments included references to the “Oregon Way” and expressed a clear preference to start with a comprehensive engagement process focused on the state’s interests, values, and information needs related to the siting and development of offshore wind before proceeding to leasing under the BOEM process. Other comments pointed out that the Roadmap process may result in new or modified enforceable policies, which could have a bearing on the types of information that would be necessary during a future review of a Construction and Operations Plan and which may, in turn, affect the site characterization and survey activities that would occur after leasing. Some comments further expressed disappointment with the BOEM-led leasing process and the overall speed of the leasing decisions, suggesting that the Roadmap process might provide a means to slow down, improve engagement with local communities and Tribes, build transparency and trust, and consider carefully the path for moving forward into leasing and development.

The OCMP considered the arguments provided and sees good reason in them. However, the federal consistency regulations that govern the state’s authority to review federal actions under the CZMA (15 CFR part 930) limit the state’s review to consider only the federal action that is proposed against the enforceable policies of the coastal program at the time of review. The state is not in a position to object to the leasing action proceeding absent completion of the Offshore Wind Roadmap because the BOEM leasing action and the Roadmap are separate and independent processes. HB 4080 is not an enforceable policy of the state coastal program and does not contain standards that would apply to this federal consistency review; rather, it requires the state to undergo a process to develop standards to be applied in future reviews. The standards pursuant to HB 4080 must support, at minimum:

- Effective stakeholder engagement;
- Local and regional coastal communities;
- The creation of economic opportunities and sustainment of existing local and regional economies;
- The creation of an offshore wind energy workforce that is local, trained, housed and equitable;
- Protection of tribal cultural and archaeological resources, culturally significant viewsheds and other interests of Indian tribes;
- Protection of the environment and marine species; and
- Achievement of state energy and climate policy objectives, including energy resource diversity, reliability and resilience of state and regional energy systems.

In letters between Governor Kotek and BOEM Director Klein, the Governor communicated an expectation that BOEM, “will not permit any offshore wind projects to move ahead with construction in the outer continental shelf until Oregon’s Roadmap is complete and the state has had a reasonable amount of time to complete any formal policy amendments that directly result from Roadmap recommendations.” Director Klein responded that, given the long period of time

necessary to complete surveys and prepare a COP, “the Roadmap report and resulting formal policy amendments should be completed well before any COP decisions are made and would accommodate [the Governor’s] request.”

DLCD is responsible for leading the Oregon Offshore Wind Roadmap process and anticipates beginning the process of engagement soon after completion of this federal consistency review.

Perceived risks and uncertainties surrounding a future project

A large number of comments communicated concerns, information needs, and recommendations related to potential future offshore wind projects being placed within the proposed lease areas. Areas of concern included specific effects to natural resources and species, broader effects to natural, economic, and social systems, and the practical challenges of building and operating new industrial infrastructure in the ocean environment and onshore.

These comments were informative and forward-looking, and the OCMP will retain the ideas expressed in them when reviewing any future federal licenses or permits that would enable a project to be built. The comments may also inform state guidance to lessees regarding the data and information that will be necessary to support a demonstration of consistency with enforceable policies during a future COP review. For this current action, which consists of a revocable lease and site characterization activities, the potential effects of an undefined future project proposal do not provide the state an adequate basis for objection based on our enforceable policies. However, they may provide such a basis if not adequately addressed by the time the state has an opportunity for federal consistency review of an actual project proposal. The site characterization activities that have been reviewed in this consistency decision are necessary to provide the data and information that the state would review as part of a future federal permit application.

Insufficient information to render a consistency decision

Several comments challenged the sufficiency of the information provided to make a decision whether the proposed action is consistent with the coastal program’s enforceable policies. Comments cited inaccuracies in the Environmental Analysis related to crab fishery behavior, the absence of ports in Douglas and Lane Counties in the socioeconomic analysis, insufficient characterization of biofouling and invasive species impacts, and that the phased decision-making process constitutes an improper segmentation of the analysis under the National Environmental Policy Act (NEPA). The OCMP will not respond to comments directed at the compliance of the EA with NEPA, but we would agree that BOEM should correct inaccuracies and omissions from the EA before the EA is released as final.

As to the sufficiency of the information provided to make a consistency decision, the OCMP has determined that the information provided in the CD, EA, and through the course of the state’s review combine to provide a sufficient understanding of the reasonably foreseeable effects of the leasing and site characterization actions, to determine whether the action is consistent to the maximum extent practicable with the coastal program. During the review, the BOEM provided additional answers to clarifying questions regarding the scope of the action. BOEM also provided drafts of the Biological Assessment prepared to support the ESA/EFH consultation with NOAA NMFS and the draft Programmatic Agreement between BOEM, the State Historic Preservation Office, and Tribes. The OCMP also received subject matter input from NOAA NMFS, California

Coastal Commission staff, practitioners of scientific buoy placement, US Army Corps of Engineers staff, and the expertise and experiences shared with us through the public input process. These interactions helped to inform the conditions under which the OCMP has determined the proposed action may be consistent to the maximum extent practicable.

Require a Programmatic EIS prior to leasing

The OCMP received many comments calling for BOEM to complete a Programmatic Environmental Impact Statement before BOEM proceeds with a leasing action and survey activities. We agree that the necessary information to support a future offshore wind project review includes the cumulative effects of the project to natural, ecological, economic, and social systems. For purposes of reviewing this Consistency Determination, however, the OCMP did not conclude that the lack of a programmatic evaluation prevented us from evaluating the action against enforceable policies as required by the regulations governing federal consistency reviews. A leasing action may ultimately lead to a wind energy project being located within the leased area, but it is also a reasonably foreseeable outcome that a project will fail to materialize due to unfavorable site characterization results, design challenges, unacceptable effects, or uneconomical cost projections. The state will have an opportunity to perform a second federal consistency review of any federal license or permit for a specific project, meaning the development of a lease is not a foregone conclusion.

Collect baseline information to create a “before” picture of environments that could be affected by offshore wind development

The OCMP recognizes the importance of scientifically defensible information regarding the effects of a development action and the value of an adaptive management framework that can detect and respond to changes that could result from a future project. The Before-After-Control-Impact framework is a formal, accepted scientific method for monitoring change, and its successful implementation requires sufficient baseline (“before”) information. The reviewed BOEM action does not include a specific development project and does not itself trigger the need for additional baseline information before conducting site investigation activities. However, this decision includes conditions requiring state involvement in survey plan coordination and review. This early coordination provides an opportunity to identify the data and information that would be necessary to support a future federal consistency review of a Construction and Operations Plan and compare the effects of a project against enforceable policies.

Concerns regarding exclusion of other users from the lease areas

Some commenters expressed concern that a leasing action would result in the exclusion of fisheries and recreational users from operating within the lease areas during the survey phase and if an eventual project were to be located there. It is not yet known how the presence of a future project might interact with other uses in the lease areas. It may be that an offshore wind array incorporates transit corridors or creates opportunities for co-use with fishery uses that can work within the practical constraints of floating interconnected infrastructure. It may also be that some uses would be restricted from the area, and the resulting effects would be evaluated against any mitigation requirements in enforceable policies as part of a future federal consistency review of a project. During the time-limited survey phase, the Consistency Determination and draft leases include requirements for coordination with fishing communities to minimize conflicts between temporary survey activities and seasonal fishing operations. This decision also includes conditions

that require the siting of met buoys avoid locations important to existing fishery uses, gear entanglement response requirements, a 24-hour contact with lessee fisheries liaisons, and vessel transit safety considerations.

Enforceable Policies not applied to the action

Many comments pointed specifically to the policies contained within Part Two and Part Five of the Territorial Sea Plan as a potential basis for the OCMP to object to the BOEM Consistency Determination. The OCMP evaluated the referenced policy language closely but did not conclude that they may be applied to this review in the manner suggested. Specific discussions of each Plan Part follow:

Territorial Sea Plan Part Five: Generally, some commenters interpreted the policies of Part Five to be applicable to the leasing action and surveys because Section 2 of Part Five provides, “When making decisions to authorize the siting, development, operation, and decommissioning of renewable energy facilities within the territorial sea, regulating agencies shall . . .”. While the state is reviewing BOEM’s Consistency Determination that the proposed leasing action is consistent with state enforceable policies under the federal consistency provisions of the CZMA, that action does not, “authorize the siting, development, operation, and decommissioning of renewable energy facilities within the territorial sea.” This BOEM leasing process is for two WEAs on the Outer Continental Shelf. Any application of Part Five would occur in the event of a future review of a COP.

Specific comments focused on the use of the term “lease” in Section D of Part Five as an indication that the requirements of that section, and Part Five generally, should apply to the BOEM leasing action and surveys. Section D provides:

The regulating agency shall require the applicant to submit an operation plan as a condition of approval for a state permit, license, lease or other authorization for renewable energy facility development. The operation plan must explain the procedures and mechanisms that the operator will employ so that the facility will comply with regulatory standards and other conditions of permit or license approval related to water and air quality, adverse environmental effects, maintenance and safety, operational failure and incident reporting.

As used here, the term “lease” is modified by the term “state” and refers to a lease for state submerged land that is issued in conjunction with a facility, e.g., a DSL Special Use Lease to install a facility in state territorial waters. The phrase “or other authorization for renewable energy facility development,” qualifies this section to apply specifically to the development of a facility, which within the state process is a combined authorization. Within the BOEM process, the lease decision and the authorization to construct a project are separated in such a way that the OCMP has determined that the policies of Part Five do not yet apply.

Territorial Sea Plan Part Three: One commenter stated that because the foreseeable effects of leasing would include site assessment activities within state waters, BOEM has failed to demonstrate how these actions would be consistent with Territorial Sea Plan Part Three – Rocky Habitat Management Strategy. The OCMP has concluded that because any seafloor disturbing activities within state waters would be subject to federal consistency review of associated US

Army Corps of Engineers permits under Section 10 of the Rivers and Harbors Act or Section 404 of the Clean Water Act, an evaluation of the consistency of survey activities within state waters would be addressed via future reviews of federal licenses or permits authorizing specific survey actions. Similarly, survey activities within estuaries or on the ocean shore would be evaluated for consistency with Statewide Planning Goals 16-18 as applicable and their implementing local government plans and codes during future reviews of those activities authorized by Army Corps licenses or permits.² This decision also includes conditions that would further protect rocky habitat resources from accidental events such as spills or detached equipment.

Territorial Sea Plan Part Two: Commenters presented the argument that BOEM’s consistency determination regarding Territorial Sea Plan Part Two – Making Resource Use Decisions is not adequate. This argument proffers that BOEM made errors with regards to the scope of the Consistency Determination and should have included the development of a future offshore wind energy facility, associated electrical cabling, and shoreside interconnection infrastructure as part of the evaluation of the leasing action. The comment further asserts that the proposed action is not consistent unless the Consistency Determination includes site characterization activities outside federal waters and the cumulative effects of the proposed development combined with other proposed projects along the West Coast. The comment contends that this lack of evaluation of a full project is inconsistent with the requirement in Part Two of the Territorial Sea Plan, which requires an inventory and effects evaluation to understand the short-term and long-term effects of the proposed decision on affected resources, including the effects of the proposed action in combination with “probable future projects”.

The commenter argues that, “Issuing leases for vast areas of ocean without any environmental analysis beyond the effects of site assessment and characterization within the lease areas is contrary to the comprehensive and precautionary approach to resource planning and management and renewable energy siting outlined by Oregon’s enforceable policies.”

The OCMP has carefully considered these comments and closely reviewed the policies of TSP Part Two in relation to the BOEM leasing action proposal. It is our determination that Part Two is applicable to “resource proposals”, meaning structures on the seafloor that are more than temporary in nature. Due to the differences between the BOEM leasing structure in contrast to Oregon leasing actions, the OCMP accepts the BOEM construction that a lease issuance is no guarantee of a future project, and its main purpose at this stage of development is to reserve the right for a single lessee to explore the lease area and submit a Construction and Operations Plan development of a project, subject to review and approval – including federal consistency review by the state. During the BOEM public meetings on the Environmental Assessment and Proposed Sale Notice, BOEM did acknowledge that the recent offshore wind leases in the United States have all so far been successful in obtaining BOEM approval of a COP. However, Oregon’s own history with offshore development from the 2010s includes the Principle Power WindFloat

² An activity on the ocean shore (Goal 18) would require an Ocean Shore Alteration Permits from Oregon Parks and Recreation Department and potentially local permits or authorizations. They will be required to comply with all applicable state and local laws.

project, which after obtaining a BOEM lease 18 miles off Reedsport, failed to develop.

It is at BOEM's discretion whether to offer an exclusive right, via a lease, to conduct survey activities for site characterization and site assessment, as it is within the voluntary discretion of project developers to bid on lease offerings at the risk that a project may never materialize or may ultimately be found inconsistent with state enforceable policies. The proposed leasing action is not offered in conjunction with a project. The associated proposed survey activities may be considered the next phase of a larger siting process. The scope of the effects of a project are not "locked in" by the issuance of a lease. The OCMP does not view the issuance of OCS leases to initiate an irreversible use of ocean resources for the following reasons: 1) the state will have a future opportunity to conduct federal consistency review of a project proposal within the lease areas, and 2) OCS leases may be canceled in the event they fail to progress forward. While development of an offshore wind project may be a foreseeable outcome of the leasing decision, it is also a reasonably likely outcome that a development will not be completed, and the leases issued as a result of this action would be cancelled. Because either outcome is foreseeable and would depend on the result of a future review decision by the state, we do not interpret the requirements of Part Two, as applied to this action, to require evaluation of the short-term and long-term effects associated with an offshore wind development project.

The OCMP agrees with the commenter that, as an implementation of Statewide Planning Goal 19, Part Two requires informed decision-making and adequate information about ocean resources and uses and the effects of any proposed action on those resources and uses. The BOEM Consistency Determination includes reference to the multi-year lease siting process that led to the Wind Energy Areas off Oregon. This process was supported by an extensive evaluation of the available resource and use inventories for the areas subject to this federal consistency review. The multi-year siting process culminated in a multi-factor analysis by the NOAA Centers for Coastal Ocean Science (NCCOS), which informed BOEM's decision to designate WEAs which they believe to hold the greatest likelihood of a successful development from that process. For the purposes of the proposed leasing action and associated surveys only, the OCMP accepts the NOAA NCCOS analysis as providing sufficient information to meet the inventory requirements of Part Two. The OCMP also believes that, absent the survey activities that are expected to follow a BOEM lease decision, it is unlikely that lessees would independently conduct the in-depth survey requirements and project design proposals necessary to support the development of a project in sufficient detail for the state to review all reasonably foreseeable effects. This presents a paradox in the structural approaches to decision-making between the federal and state systems of leasing and development. Is a full project design and high-resolution resource inventory a prerequisite to leasing, or is the leasing a prerequisite to facility design and site characterization? If the state maintains that BOEM may not issue leases until all resource inventory information is obtained, and that detailed inventory and project design information is unlikely to be obtained absent a lease, then it may prove impossible for offshore wind to be explored as a potential energy resource for Oregon.

In a larger context, Goal 19 gives priority to the protection of renewable ocean resources (*i.e.*, living organisms and habitats) over non-renewable resource development. The lack of an exclusive right within the lease area would open the areas to overall greater amount of disturbance resulting from overlapping survey activities by multiple hopeful lease contenders. If these actions were to be performed independently of the BOEM leasing process, the state would not have had the opportunity to assess their consistency with enforceable policies and apply conditions like are

included in this decision, unless the state were to successfully apply for an Unreviewed Activity Review request from the NOAA Office for Coastal Management to obtain review authority over individual US Army Corps of Engineers permits. The introductory language to Part Two includes explicit reference to “small-scale environmental disturbances to seek new information”, and the OCMP views this as recognition that Part Two may also be a vehicle by which more information is obtained to support future project development.

Concerns regarding survey effects, including recommendations for vessel speed limits and qualified observers during all vessel activities

Many commenters communicated concerns regarding potential effects from the survey activities included with the reviewed action and made recommendations regarding measures that could be taken to minimize those potential effects. Concerns included potential effects to marine species from vessel interactions, adverse effects to sensitive benthic habitats and communities from seafloor-disturbing activities, and acoustic effects from survey equipment such as sonars, sub-bottom profilers, or “high energy” equipment such as airguns. The OCMP has incorporated the concerns and recommendations into multiple conditions included with this consistency decision, including a requirement for vessel speed limits, protective buffer areas for seafloor habitats, and species observers for all vessel-based activities.

The OCMP acknowledges that multiple commenters requested acoustic monitoring to accompany geophysical survey activities. Through discussions with BOEM, the OCMP determined that real-time monitoring of acoustic output and disturbance distances would not be feasible during mobile survey operations. The Consistency Determination already excludes consideration of high-energy survey equipment (*e.g.*, air guns or water compression devices that produce acoustic energy). This decision includes a condition that harmonizes the maximum disturbance distance to mammals and sea turtles with the reasonable maximum observational distance from vessels, to further define approvable power levels for low energy equipment in survey plans that would be reviewed by BOEM and the state. The OCMP believes the condition requiring equipment power level restrictions within vessel survey plans, based on the best available technical information regarding species effects, and coupled with the presence of onboard observers during all geophysical equipment operation, provides sufficient demonstration of consistency to the maximum extent practicable with enforceable policies.

The OCMP consulted with Oregon Department of Fish and Wildlife (ODFW), NOAA NMFS, and BOEM to develop a condition that requires all bottom-contacting survey activities to avoid sensitive benthic habitats, including rock substrates, corals, methane seeps, and other hard bottom features. The condition requires lessees to consider the uncertainties and challenges related to bottom equipment placement accuracy and to take appropriate measures to manage that uncertainty and take reasonable precautions. The condition also requires the lessee to report the location of all bottom-contacting activities in their 6-month progress reports for purposes of verification. Finally, the OCMP condition requires an additional buffer distance for bottom contacting activities as a precautionary measure, to respond to uncertain effects that may stem from bottom disturbing activities.

To address concerns about vessel interactions, the OCMP has included conditions to limit vessel speeds to 10 knots, establish vessel transit corridors, reduce gear entanglement risks, and require protected species observers during all vessel operations.

Prohibit site characterization activities during times of highest risk for marine mammals, sea turtles, and seabirds.

One commenter requested that the OCMP include a condition to prohibit vessel activities from occurring during times of highest risk for certain species, including periods of high migration, molt for alcid seabirds, and when mother-calf pairs are present. The OCMP considered this comment in relation to the action and other existing actions that occur in the ocean during times when species may be present. The OCMP finds that rather than require seasonal spatiotemporal avoidance measures, the more precise avoidance measures described in the Consistency Determination, including Protected Species Observers, equipment shutdown procedures, and acoustic equipment restrictions, provide sufficient protection to be consistent with coastal program policies.

The OCMP should require the lessee to coordinate its survey plans with state agencies to ensure that the described activities minimize impacts to coastal resources and provide the data and information necessary for future consistency reviews

The OCMP agrees with this recommendation and has included a condition requiring coordination between lessees and state agencies prior to survey plan submission, as well as a requirement that the state be able to provide formal comments on survey plan submissions that would require the lessee to make every reasonable effort to resolve before the survey actions may proceed.

OCMP should require an adaptive management plan be submitted with the developer's Site Assessment Plan

The requirements surrounding adaptive management plans are contained in Part Five of the Territorial Sea Plan, which implements Goal 19: Ocean Resources. Part Five is meant to address the effects of marine renewable energy facilities, and the adaptive management requirements in the Plan are specifically aimed toward the effects resulting from a permanent facility and its operations. The OCMP determined that an adaptive management plan would not be well-suited to the site characterization activities associated with the proposed leasing action. The OCMP has, however, included conditions requiring anchoring plans, emergency response and recovery plans, spill prevention and response plans, and other precautionary measures consistent with the policies of Goal 19. The OCMP does expect that a comprehensive Adaptive Management Plan would be a part of a future federal consistency review of a project proposal under a Construction and Operations Plan.

Lessee survey activities should be subject to third-party monitoring and verification

In response to concerns about protection of ocean resources, potential new species discoveries in the lease areas, and a need for trust in the permitting process, commenters recommended that the OCMP include conditions that would establish a third-party, independent review function to verify and oversee the survey data collected by lessees. The OCMP understands the concern and agrees with the concept underlying the comment. This decision includes a condition to allow state agency observers onboard survey vessels at the state's discretion, submittal of all vessel observer environmental monitoring reports to the state concurrently with BOEM, and a right for the state to be given access to the survey data upon request and in consideration of applicable proprietary information protections.

The OCMP also strongly encourages BOEM and lessees to consider the benefits of independent verification and oversight of lessee survey activities to build foundational trust in the information

collected in support of a COP.

The Best Management Practices described in the Consistency Determination and Environmental Assessment should be requirements instead of suggestions

Some commenters observed a lack of clarity regarding whether the Best Management Practices described in the CD and included in Appendix D of the EA would be mandatory or merely “recommendations” or “suggestions”. The OCMP clarified with BOEM that the BMPs in Appendix D are assumed to be mandatory for all lessees. Additional BMPs or Project Design Criteria are also expected to result from the consultations between BOEM and NOAA NMFS related to compliance with the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act. These additional measures may be more stringent or specific than the measures identified in the CD and the EA, but not less. The OCMP has conducted its review based on an understanding that the measures described in the CD and EA will be mandatory and made no less protective based on further consultations with other federal agencies. The OCMP has included conditions containing additional measures that, if implemented, would result in a determination that the action is consistent to the maximum extent practicable.

Data collected during the survey period should be made publicly available

The OCMP agrees with this comment and has included a condition that requires collected data be made publicly available to the extent allowable under the Freedom of Information Act; however, the OCMP understands that certain information may fall under proprietary information protections and be withheld from public release until three years after the start of commercial operations of a project. At the time of a future federal consistency review of a Construction and Operations Plan, the OCMP has been informed that state agencies, in their review capacity, would have access to any data and information necessary to support a consistency decision.

The leasing action and surveys should be accompanied by risk bonding and measures to prevent marine debris

Comments recommended that the OCMP require liability insurance and bonding to cover the leasing action and all subsequent survey and development actions within lease areas. The purpose of these requirements would be to ensure that Oregon does not bear the costs of adverse environmental effects from projects or cleanup in the event of accidents or abandonment of equipment. The OCMP will retain these comments for use in future reviews but has determined that they are not applicable to the proposed action under review. The BOEM leases do include initial bonding requirements of \$100,000 to cover potential liabilities incurred during the site characterization phase. The Project Design Criteria proposed as part of the NOAA NMFS consultation also includes additional requirements of lessees related to marine debris prevention, recovery, and reporting. The BOEM regulations under 30 CFR § 285.902 further require lessees to remove or decommission all obstructions and clear the seafloor of all obstructions created by activities on the lease. This decision further includes a condition requiring an Emergency Response and Recovery Plan be submitted prior to in-water survey activities, which would describe major types of emergency conditions that could reasonably occur during deployment and operation of survey and site assessment equipment, and resources available to be used to respond to an emergency. Additional bonding or response measures may be identified via US Army Corps of Engineers’ permits that would apply to met buoys resulting from the leasing action.

Suggested amendments to BOEM proposed bidding credits in the Proposed Sale Notice

A variety of comments recommended that the OCMP condition its consistency decision on changes to the bidding credit system BOEM included with its Proposed Sale Notice for the lease areas. It is the OCMP's determination, in consultation with the NOAA Office for Coastal Management, that the bidding credit types and percentages are outside the scope of the federal consistency review, and the state would not be in a position to object to the BOEM leasing action on account of insufficient bidding credits. However, in the event that an offshore wind development project is proposed in the future, the OCMP would evaluate the effects of the project against applicable enforceable policies of the coastal program. Lessees are encouraged to engage in conversations with all potentially affected communities of place or practice early and to participate in the Oregon Offshore Wind Roadmap process, to fully understand the effects to communities of place and practice and any associated policies.

Comments related to power purchase agreements, transmission line effects, energy policies and economics

Commenters expressed concerns or made suggestions regarding state and regional power system economics and the grid infrastructure work that may be necessary to safely and efficiently support an additional source of power generation west of the Coast Range. The OCMP will retain these comments for use in future reviews but has determined that they are not applicable to the proposed action under review.

OCMP should apply labor standards to the leasing action

Commenters advocated for the BOEM leasing instrument to contain labor standards in line with the provisions of HB 4080 that were passed by the legislature in 2024, and for the federal consistency decision to include these provisions as a condition of concurrence. HB 4080 has not been formally incorporated into the coastal program using the Program Change process through the NOAA Office for Coastal Management and is not an Enforceable Policy for this review.

Lessees should use only one subsea electrical cable or the minimum number of cables

Several commenters expressed that BOEM must not permit multiple cables to be sited from the lease areas to shore, as a means to minimize the overall effect of cable placement within state waters and onshore areas. The action under review at this time does not include any authorizations for cables and does not propose any cable routes. The decision regarding cable corridor easements would be made alongside the review of an entire offshore wind project (the Construction and Operations Plan), which the OCMP expects to occur, if ever, in approximately five years. At that time, the OCMP may consider the relative effects of a single cable to shore vs. multiple cables to multiple onshore grid interconnection points, and whether it is feasible and overall, less harmful for the two lease areas, spaced 100 miles apart, to connect with one another in federal waters before coming to shore. The siting of subsea cables is covered under Part Four of the Territorial Sea Plan, which includes early coordination between applicants and state agencies via participation in a Joint Agency Review Team. The OCMP expects that the requirements of Part Four will be applicable to a federal consistency review of a COP.

Investigations should only be conducted in federal waters, not in state waters or onshore

This federal consistency review is limited to only those survey activities that would occur in federal waters, but it is expected that a result of the leasing decision would also include similar or the same types of survey activities within state waters and potentially onshore, as lessees attempt to find the best cable routes from an offshore wind energy project to the energy grid onshore. The

OCMP will have the opportunity to review any seabed disturbing activities in state waters via US Army Corps of Engineers permits, as well as any onshore activities that involve discharges to waters of the United States. Actions in state waters and onshore would also be within the jurisdiction of state and local permits and authorizations. The conditions in this decision include measures applicable to ship-going activities, such as vessel speed limits and the use of protected species observers, which the OCMP expects to be broadly applicable to all OSW-related activities performed under the proposed BOEM leases.

Effects to local ports should be addressed as part of the leasing and survey action review

Several comments noted that the Draft EA contains incomplete information about the ports in the area, and some expressed concern about the potential displacement of existing vessels due to competition for moorage space or marine services during the site assessment phase. The OCMP shares an interest in understanding the potential effects to port services and other ocean users, but it is not clear at this time how the OCMP's enforceable policies might intersect with these types of effects. We have added this to the list of policy areas to be evaluated further during the enforceable policy gap analysis and Offshore Wind Roadmap process to be followed in accordance with HB 4080. For purposes of this evaluation, the expected number of vessel trips reported in the CD and EA included a wide range in order to provide a conservative estimate of potential effect, but the actual flow of vessel traffic associated with survey activities will likely be lower based on experiences reported in other states.

The OCMP should require that BOEM engage in meaningful consultation with Tribes, Oregon natural resource agencies and commissions, and local communities

The OCMP agrees that BOEM and lessees should be engaging in meaningful conversations with Tribes, state natural resource agencies and commissions, and local communities. These interactions are especially important during the survey activities following a lease and in the preparation of a Construction and Operations Plan. This decision includes conditions related to ongoing engagement, which augment lessee requirements for engagement that were already included in the BOEM lease drafts provided with the Proposed Sale Notice.

The OCMP should engage in consultation with Oregon's federally recognized Tribes that serves as a two-way exchange of information and meaningful consideration of information received from Tribes and mutually desired outcomes

At the outset of this federal consistency review, the OCMP offered formal and informal consultation with the nine Federally recognized Tribes in Oregon related to the review of BOEM's Consistency Determination. OCMP staff and leadership subsequently met with four coastal tribes to further discuss the consistency review and the larger leasing and development process. The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians additionally provided written input into the consistency review. The conditions included with this decision have attempted to respond to Tribal feedback and interests, within the context of the state's authority.

CONSISTENCY DECISION

OCMP concurs, with conditions, with the BOEM Consistency Determination. The conditions are included in the table below:

	Condition	Most Applicable Enforceable Policy Basis
1	<p>Plan Review and Coordination: BOEM will require lessees to coordinate survey plan and SAP submissions with the Oregon DLCD to ensure that the activities described in the survey plans and SAPs are conducted in a manner that minimizes impacts to coastal resources and are designed to result in the acquisition of data and information necessary to support, as applicable, future consistency certifications.</p> <p>As part of this effort, BOEM will require the lessees to:</p> <ol style="list-style-type: none"> a.) Hold regularly scheduled meetings with the Lessor and the Oregon DLCD, and other relevant state agency staff identified by the Oregon DLCD, during the development of survey plans and SAPs. b.) Provide to the Oregon DLCD access to the Lessee's survey plans, unless BOEM determines, upon the Lessee's request for a determination, that any portion of the survey plan is exempt from disclosure under FOIA (5 USC § 552) and/or the regulations contained in 43 CFR part 2 and at 30 CFR § 585.114, in which case, Lessee will provide Oregon DLCD a redacted copy of the survey plan. Prior to submitting the survey plan to BOEM for review, the lessee will submit a draft survey plan to Oregon DLCD. The State will have 30 days from its receipt of a draft survey plan to provide comments to the Lessee and BOEM will require the Lessee to make all reasonable efforts to resolve all State comments on the survey plan. After BOEM's review of the survey plan is complete, the Lessee will list any remaining unresolved comments from the State in the required progress reports. c.) Prior to survey activities, the Lessee must provide Oregon DLCD a list of all permits and authorizations applicable to survey activities occurring in state waters and a statement indicating whether such authorization or approval has been applied for or obtained. d.) Hold a pre-survey coordination meeting with Oregon DLCD staff prior to the submission of survey plans to coordinate, to the extent reasonable, Lessee's survey plans with the activities of other Oregon lessees, minimize impacts to coastal resources and ocean uses, and minimize the duplication of data collection activities whenever feasible by using existing data where applicable, such as via publicly available sources, e.g., NMFS survey data for fish distribution. e.) For extractive fisheries surveys in state waters, consult with Oregon DLCD to identify scientific take permit needs, if any; identify any current data sets or non-lethal sampling methods that could be used to meet objectives; and reduce the negative impacts that may occur from extractive sampling methodologies. f.) Share the data and reports included in a SAP or COP submission resulting from site characterization and site assessment activities with the Oregon DLCD concurrent with submittal to BOEM, unless information therein is exempt from disclosure under FOIA (5 USC § 552) and the regulations contained in 43 CFR part 2 and at 30 CFR § 585.114. In that case, Lessee will provide Oregon DLCD a redacted copy of the survey reports. g.) To the extent practicable, lessees should share survey data with Oregon DLCD upon request for purposes of data verification. This data would be shared with the State as a confidential submission. Oregon DLCD would follow any necessary protection requirements for proprietary information. h.) Public Availability of Collected Information: Per federal regulation 30 CFR § 585.114, documents and data resulting from research, surveys, and other data collection efforts conducted during the leasing phase by lessees that are subject to the Freedom of Information Act will be publicly available to the maximum extent feasible. i.) Accommodate requests from the Oregon DLCD for state agency staff to observe survey activities to the extent feasible. 	<p>Statewide Planning Goal 19 – Ocean Resources, Territorial Sea Plan (TSP) Parts Two, Four, and Five Coordination</p> <p>Requirements in support of necessary data and information for a COP.</p> <p>ORS 496 - Wildlife Policy, ORS 506 - Food Fish Policy</p> <p>Coordination actions that increase the efficiency and effectiveness of survey plans reduce the overall impact to ocean resources.</p> <p>It is anticipated that work under a survey plan would intersect with most if not all policies evaluated in the Consistency Determination, but these activities are subject to further definition. Additionally, activities within state jurisdiction would intersect with state statutes, administrative rules, and local policies contained in</p>

	<p>2 Regional Lessee Coordination: BOEM will encourage lessees to coordinate with each other on their survey plans to the maximum extent practicable to increase efficiency and minimize impacts of geophysical and other surveys conducted during the site assessment and characterization phase. BOEM will encourage lessees to coordinate their efforts with other lessees in the region to minimize the regional and seasonal space use conflicts with fisheries users.</p>	<p>comprehensive plans and codes. Goal 19 ORS 496 - Wildlife Policy ORS 506 - Food Fish Policy Rationale: increased efficiency of survey activities reduces overall impact to ocean resources</p>
<p>3 Anchoring Plan:</p>	<p>BOEM will require the Lessee, or any third party acting on behalf of the Lessee, to submit an Anchoring Plan to BOEM at least 30 days prior to any site assessment or site characterization activity that requires anchoring. The Anchoring Plan must describe how the Lessee will avoid placing anchors on sensitive seafloor habitats, cultural resources, or infrastructure and must include the following information:</p> <ul style="list-style-type: none"> - A list of all equipment or devices that will anchor onto the seafloor and the number and size of anchors to be set; - Detailed maps showing proposed anchoring sites located at an appropriate distance (buffer), but at least 1,000 ft from the perimeter of hard substrate, rock outcroppings, seamounts, or deep-sea coral/sponge habitat locations; the distance between the proposed anchoring sites and hard substrate must be sufficient to fully protect the hard substrate from anchors and related infrastructure; - A description of geophysical and seafloor sampling to be conducted; - A description of the navigation equipment that would be used to ensure anchors are accurately set; and - Anchor handling procedures that would be followed to prevent or minimize anchor dragging, such as placing and removing all anchors vertically. 	<p>Goal 19 ORS 496 - Wildlife Policy ORS 506 - Food Fish Policy ORS 196 Removal-Fill ORS 509 Fish Passage ORS 468B Water Quality Rationale: Benthic habitat protection from damage, benthic species effects, and invasive species.</p>
<p>4 Site-specific Spill Prevention and Response Plan:</p>	<p>BOEM will require the lessee to submit a site-specific Spill Prevention and Response Plan a minimum of 30 days before commencement of any in-water survey activities or as part of any survey plan or SAP. The plan will be provided to the state concurrently with BOEM. The Plan shall be kept on the appropriate survey vessels during all survey and SAP operations. The Plan must identify the worst-case spill scenario and detail the availability of adequate spill response equipment. The Plan must also, to the extent not inconsistent with BSEE or United States Coast Guard requirements: include preventative measures the Lessee will implement to avoid spills; clearly identify responsibilities of onshore and offshore contractors and the Lessee's personnel; and list and identify the location of oil spill response equipment (including booms), appropriate protocols, and response times for deployment. Petroleum-fueled equipment on the main deck of all vessels must have drip pans or other means of collecting dripped petroleum, which must be collected and treated with onboard equipment. The Plan must include a notification procedure that includes the Oregon Emergency Response System and United States Coast Guard (USCG). Spill Prevention and Response Plans should be consistent with and should reference the Northwest Area Contingency Plan (https://rrt10nwac.com/NWACP/Default.aspx), including the applicable Geographic Response Plans for the Oregon Coast (https://geo.maps.arcgis.com/apps/instance/interactivelegend/index.html?appid=3455f3d486d14d61b0cb69d4b8d4f347). Additional requirements may be applicable for vessels operating within state waters and visiting Oregon ports.</p>	<p>ORS 468B.355 OAR 340-141-0150 Rationale: Protection of water quality from the risk of oil or other hazardous spills.</p>

<p>5</p>	<p>Emergency Response and Recovery Plan: BOEM will require the Lessee to concurrently submit to BOEM and Oregon DLCD a site-specific Emergency Response and Recovery Plan (ERRP) a minimum of 30 days before commencing any in-water survey activities or as part of any survey plan. A copy of the ERRP must be kept on the survey vessels during survey activities. The ERRP must describe major types of emergency conditions that could reasonably occur during deployment and operation of survey and site assessment equipment such as buoy detachment, or entanglement, and resources available to be used for responding to an emergency. The ERRP must also clearly identify responsibilities of onshore and offshore contractors and the Lessee's personnel, list and identify the location of emergency response equipment and applicable response protocols. The ERRP must include a notification procedure that includes the Oregon Emergency Response System.</p> <p>The lessee will provide an opportunity for state comment on the ERRP (no greater than 30 days) and make all reasonable efforts to respond to state comments.</p>	<p>ORS 390 – Ocean Shores ORS 274 – Submerged Lands TSP Part Three – Rocky Shores Goal 19 – Ocean Resources</p> <p>Rationale: detached buoys or entangled gear may pose hazards to submerged lands, ocean shores, rocky shores, or ocean resources (species or habitats)</p>
<p>6</p>	<p>Buffer Areas for Bottom-Disturbing Activities: Survey plans must include a buffer that fully protects hard substrate, rock outcroppings, seamounts, or deep-sea coral/sponge habitat from all bottom contact activities other than anchoring, including but not limited to, mooring, underwater transponder positioning (UTP) placement, geotechnical equipment and installations used in site assessment and site characterization activities, and sediment sampling. The survey plan shall include an analysis to describe how sufficient buffer sizes have been determined and to address placement uncertainty or potential inaccuracy due to deployment conditions. The buffer shall be no less than 250 ft for all ground disturbing activities.</p> <p>The lessee shall provide all as-placed locations of all bottom-disturbing equipment within the Lease Area and survey areas in the next 6-month progress report.</p> <p><i>* Additional informational context regarding positioning accuracy and sufficient buffers:</i> The deployment of anchors and scientific equipment that contacts the seafloor can be a challenging and imprecise operation off the Oregon coast, especially along the edge of the continental shelf where surface current velocities often exceed 1.5 kts and strong sub-surface currents often run in different directions from the surface. This logistical constraint, combined with slow-growing and fragile communities (e.g. deep-water corals and sponges) which would be destroyed by even brief gear contact, requires including a margin of error for any targeted bottom contact. Consultation with professional teams experienced in deploying oceanographic equipment yielded a general expectation that the “fall-back” (the horizontal distance between the position of a vessel at the time of deployment and the final position of a buoy anchor on the seafloor) is typically in the range of 10-30% of the water depth. The expected fall-back distance does not account for potentially adverse conditions at the time of deployment, less experienced crews, or any additional margins of error; rather, it is the expected horizontal displacement under good conditions.</p>	<p>Goal 19 – Ocean Resources ORS 506 - Commercial Fishing/Fisheries ORS 496 - Wildlife Policy</p> <p>Rationale: Protection of important, sensitive, or unique seafloor habitats and foraging species from disturbance.</p>

<p>7</p>	<p>Met Buoy Placement Coordination: BOEM will require the lessee to site meteorological buoy installation locations to avoid areas important to fisheries and existing scientific survey lines, to the maximum extent practicable. BOEM will require lessees to work with state and Federal agencies as well as coordinate with the fishing industry to find locations for installation of met buoys with the least conflict with fisheries. BOEM will encourage lessees to place all met buoys and other oceanographic moorings inside the WEAs to minimize impacts and interactions with commercial fisheries. By reducing conflict between site assessment activities and fishing gear, the risk of secondary entanglement of marine species will also be reduced.</p>	<p>Goal 19 – Ocean Resources ORS 506.109 – Food Fish Policy Rationale: Protection from gear entanglement and secondary entanglement risks to ocean resources and optimal food fish utilization.</p>
<p>8</p>	<p>Minimizing the risk of vessel strikes: BOEM will require vessels conducting lease characterization studies, surveys, metocean buoy installation, maintenance, or decommissioning or any other survey activities to travel at speeds no more than 10 knots during all related activities including vessel transit along the Oregon coast. Vessels will be required to slow down further if a sea turtle is spotted in its path and practice collision avoidance measures. If future consultation with NMFS, USFWS or other state or federal agency results in different vessel speed requirements, BOEM will work with agency staff to ensure that any new requirements remain consistent and do not diminish the level of resource protection provided by this requirement.</p>	<p>ORS 496.171 et seq. Oregon Endangered Species Act Goal 19 – Ocean Resources Rationale:</p>
<p>9</p>	<p>Marine Wildlife Protection and Monitoring Measures: BOEM will require the Lessee to implement all Marine Wildlife and Protection measures listed below during all marine operations (e.g., surveys, buoy installation and removal), consistent with vessel and worker safety:</p> <ol style="list-style-type: none"> 1. Prior to the start of offshore activities, the lessee shall provide awareness training to all Project-related personnel and vessel crew on the most common types of marine wildlife likely to be encountered in the Project area and the types of activities that have the most potential for affecting the animals. 2. A minimum of one NMFS-approved observer shall be located on each vessel to conduct observations. The observer(s) shall: <ol style="list-style-type: none"> a) be sufficient in number to ensure complete viewing coverage of the surrounding marine environment during all hours of operation (e.g., multi-day, 24-hour operations may be appropriate to require multiple observers). b) have the appropriate safety and monitoring equipment adequate to conduct their activities (including night-vision equipment for nighttime survey operations). c) be mandated to monitor the exclusion zone, as well as the pre-clearance and shut-down zones, irrespective of the survey equipment or method used. d) have the authority to stop any activity that could result in harm to a species protected by state policy, except when complying with this requirement would put the safety of the vessel or crew at risk. e) immediately notify NMFS in the event that a whale comes in contact with a vessel or survey equipment or becomes entangled in any cable or lines, so that appropriate response measures can be implemented. Similarly, if any harassment or harm to a marine mammal occurs, the observer shall immediately notify NMFS and any other required regulatory agency. 	<p>Goal 19 ORS 196 Removal-Fill ORS 468B Water Quality ORS 496 Wildlife, particularly ORS 496.171 Management authority for T/E species OESA ORS 506 Commercial Fishing/Fisheries, particularly ORS 506.142 Authority of Fish Division – management of all fish and other marine life in State Jurisdiction Rationale: Protection of Ocean Resources</p>

	<p>3. The Lessee will submit a final report summarizing the results of monitoring activities to BOEM and concurrently send a copy to Oregon DLCD no more than 90 days following completion of yearly survey activities. To the extent not in conflict with requirements imposed by NMFS, the report must, at a minimum, include:</p> <p>(a) an evaluation of the effectiveness of monitoring protocols, and</p> <p>(b) reporting of: (i) marine mammal, sea turtle, seabird, and other wildlife sightings (species and numbers); (ii) any wildlife behavioral changes; and (iii) any interactions or conflict with marine wildlife, including reporting of any project delays or cessation of operations due to the presence in the project area of Protected Species</p>	
10	<p>Archaeological Resources and Inadvertent Discovery: BOEM shall require that lessees include an Inadvertent Discovery Plan, consistent with the current template available through LCIS, in all survey plans that involve geotechnical survey activities. BOEM shall require the lessee to provide notification to the SHPO and appropriate Tribes concurrently with all notifications to BOEM in the event of inadvertent discovery of archaeological or cultural resources. Notification by lessees to BOEM, SHPO, and appropriate Tribes should be immediate in the event of discovery of human or funerary remains.</p>	<p>ORS 358 ORS 390 ORS 97</p>
11	<p>Geotechnical Survey Coordination with Tribes and SHPO: If Tribes indicate that staff want to be onboard vessels as observers during bottom disturbing activities, lessees must make all reasonable efforts to accommodate these requests and coordinate activity schedules to allow Tribal presence. BOEM will encourage lessees to compensate Tribes for the utilization of such observers.</p> <p>Upon request by Tribes, cores collected shoreward of 130m water depth or from areas that may have been above sea level during the last glacial maximum shall be brought to shore and opened in the presence of a QMA and Tribal observer.</p>	<p>ORS 358 ORS 390 ORS 97</p>
12	<p>Safe Navigation: BOEM will work with stakeholders including the US Coast Guard (USCG), National Oceanic and Atmospheric Administration (NOAA) /NMFS, the fishing and maritime industries and state agencies to ensure safe navigation through the lease areas. Safe navigation shall include notices to mariners regarding the location of buoys and anchors and may entail designation of transit corridors. The OCMF acknowledges that the leases require lessees to coordinate with the USCG regarding survey activities to support adequate vessel emergency response capabilities in the vicinity of the survey areas when overall vessel activity is higher.</p>	<p>ORS 506.109 (4) to develop and maintain access to the lands and waters of the state and the food fish resources thereon. Also ORS 496.012(4) develop and maintain public access to the lands and waters of the state and the wildlife resources thereon</p>
13	<p>Entanglement Effect Minimization: On a recurring basis of at least once per year, the Lessee shall inspect whether fishing gear is entangling with the Lessee's mooring lines. If entangled gear is identified, the lessee shall consult with state and federal resource agencies to determine the potential risk of secondary entanglement to marine species. If a significant or imminent threat is identified, the lessee shall take all reasonable actions to remove the entangled gear or otherwise minimize the risk.</p>	<p>Goal 19 ORS 506 ORS 496 Rationale: Protection of to optimal fisheries management and minimizing secondary entanglement to ocean life.</p>

<p>14</p>	<p>Invasive Species Management: To address potential concerns related to the introduction of invasive species via vessel activities, buoy deployment, and equipment use, BOEM will require lessees to:</p> <ol style="list-style-type: none"> 1. Decontaminate equipment and materials used in the marine environment and for site assessment and site characterization related activities before and after deployment; 2. Include in survey plans an Invasive Species Management component, which describes actions the lessee will take to avoid the spread of these organisms. 	<p>Goal 19 – Ocean Resources ORS 496 – Wildlife Policy Rationale: Protection of native ocean resources.</p>
<p>15</p>	<p>Anchor Removal: The Lessee shall remove all anchors associated with meteorological and/or oceanographic buoys within the lease area, consistent with all applicable federal permits.</p>	<p>Goal 19 ORS 506 Commercial Fishing/Fisheries ORS 496 Wildlife Policy Rationale: Protection of ocean resources, protection of fisheries uses from obstructions and gear entanglement risks</p>
<p>16</p>	<p>Engagement with Oregon Federally Recognized Native American Tribes: BOEM will require lessees to make reasonable efforts to demonstrate two-way dialogue (engagement) with federally recognized Oregon Native American Tribes (Tribes) that could be affected by future development associated with a lease on all elements of the lessees’ project development process, including, but not limited to, a workforce plan, survey plan and SAPs, and a COP. We ask that BOEM require lessees to develop an engagement framework with Tribes, to retain a qualified tribal liaison with knowledge of local tribal law, indigenous cultures, tribal ecological science, and other traditional knowledge. More specifically, as part of any survey plan or SAP, we ask that BOEM require lessees to work with Tribes to develop a protocol for communication directly with Tribes in the event of an unanticipated discovery of a potential tribal resource as well as a post-discovery process for evaluation of a discovery.</p> <p>Lessees are encouraged to engage with Tribes on other topics of interest to the Tribes that relate to or address impacts that wind-related development will have on the Tribes, which may include the potential to strengthen energy infrastructure on tribal lands and development of tribal economic enterprise related to offshore wind. Engagement with Tribes should be coordinated to the maximum extent practicable with other Lessees in the region to reduce the time and logistical burden on Tribes. To add capacity at Oregon Tribes to participate in these processes, we ask that BOEM strongly encourage the Lessee to compensate members of Tribes for their time participating in engagement activities, events, and archaeological resource monitoring activities. Development of any Engagement Plan should be conducted in coordination with Tribes.</p> <p>Additional specific conditions related to Tribal Engagement:</p>	<p>ORS 97, 192.345, 358, and 390, policies re: archaeological resource protection.</p>

	<p>a. In a manner equivalent to the state review of survey plans described in Condition 1, BOEM will: 1) Provide to Tribes who request it, access to the Lessee’s survey plans, unless BOEM determines, upon the Lessee’s request for a determination, that any portion of the survey plan is exempt from disclosure under FOIA (5 USC § 552) and/or the regulations contained in 43 CFR part 2 and at 30 CFR § 585.114. In that case, Lessee will provide interested Tribes a redacted copy of the survey</p> <p>b. Tribes who receive survey plan drafts will have 30 days from its receipt of a survey plan to provide comments to the Lessee and the Lessee will make every effort to resolve all Tribal comments on the survey plan. The Lessee will list any unresolved comments from the Tribes in the required progress reports.</p> <p>c. Prior to, and while, engaging in ground disturbing activities, the Lessee will comply with a Programmatic Agreement executed pursuant to Section 106 of the NHPA or with Section 106 and its implementing regulations.</p> <p>d. The Native American Tribes Communications Plan shall contain a data and information sharing plan that addresses survey-related information valuable to Tribes.</p>	
<p>17</p>	<p>Engagement with environmental justice and local communities:</p> <p>BOEM will require lessees to make reasonable efforts to conduct outreach with local affected communities—and in particular to demonstrate long-term engagement with environmental justice communities, including but not limited to low-income communities and communities of color—on all elements of the lessees’ project development process, including, but not limited to, a workforce plan, survey plan and SAPs, and a construction and operations plan (COP). This engagement should be coordinated to the maximum extent practicable with other Lessees in the region to reduce the burden on communities. The Lessee is strongly encouraged to compensate members of environmental justice communities for their time participating in engagement activities and events. Development of any Engagement Plan should be conducted in coordination with communities and should include strategies to reach individuals with Limited English Proficiency who may be affected by future offshore wind development. As part of the Lessee’s engagement with environmental justice communities, the lessee is strongly encouraged to work with the community to develop specific frameworks for community leadership and capacity building. This may include the establishment of lessee-funded independent community-centered and governed working groups that center environmental justice communities to ensure that community decision-making at all stages of the project beyond a consultative position. Lessees and environmental justice communities may choose to develop a formal agreement to monitor community impacts and implement community benefits, which may be amended over time to reflect subsequent analysis of impacts and opportunities for environmental justice.</p>	
<p>18</p>	<p>Engaging with Fisheries Users:</p> <p>The OCMF acknowledges that BOEM will require lessees to have an independent fisheries liaison that is responsible for the coordination and communication of site activities with affected commercial and recreational fishing communities and harbor districts, including development and implementation of survey plans and SAPs. The OCMF recommends that the liaison be local to the region and have experience with west coast fisheries. The fishing liaison will work with fishing communities and the harbor districts to coordinate survey and other activities and to develop a process for reporting and mediating conflicts between mariners and survey vessels/equipment. Lessees and fishing communities (including harbor districts) may choose to develop a signed/formal agreement that can be amended to reflect subsequent analysis and discussion between the fishing industry or harbor district and developers on mechanisms for addressing impacts to commercial fishing.</p> <p>BOEM will require the lessees’ Fisheries Communication Plan to include measures by which lessees will avoid and minimize interactions between the vessels associated with survey activities and deployed fishing gear to the maximum extent practical.</p>	<p>Goal 19 ORS 506.109</p>

	<p>In addition to those elements described in the draft leases, the Fisheries Communication Plan shall include:</p> <ul style="list-style-type: none"> • Provisions for coordination of survey activities with affected fishing industry sectors to schedule site assessment and/or site characterization activities during times when fisheries utilizing the proposed lease areas to minimize potential impacts. • Provisions for coordination of survey activities across lease areas in Oregon and California relative to fishery uses, to reduce potential regional and seasonal space use conflicts. • A means for 24-hour communication. • Commitments to work collaboratively with local fishing industry representatives to identify optimum transmission and interarray cable routes. <p>BOEM will require lessees to submit reports on process, outreach, and outcomes of engagement with fishing communities and harbor districts and will provide copies of these reports to the OCMF. All documents and analysis will be made publicly available and readily accessible, to the maximum extent practicable.</p>	
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ADVISORY: FUTURE PROJECT CONSISTENCY CERTIFICATION REVIEWS

This conditional concurrence decision does not have bearing on whether a future project proposed in a lease area would be found consistent with Oregon’s enforceable policies and able to proceed. Through the review of this leasing action, the OCMP has received strong, clear, and abundant feedback indicating that many critical questions remain unanswered about the effects of offshore wind development to coastal uses and resources. Coastal communities and ocean users are deeply concerned about the risk of potential loss. The OCMP will work with lessees to identify the necessary data and information needs identified through this review to address foreseeable effects, perceived risks, processes, and policies that a lessee would need to furnish at the end of the site assessment phase when a consistency certification for a Construction and Operations Plan is submitted for state federal consistency review. Lessees should also be aware that the routing of cables through the Territorial Sea to onshore interconnection points will require early coordination and cooperation with relevant state and local government entities through participation in Joint Application Review Teams, and lessees are encouraged to contact the Department of State Lands early to begin coordination.

Oregon’s Offshore Wind Roadmap and Potential Changes to Enforceable Policies

In 2024, the Oregon Legislature passed House Bill 4080, which directed the Department of Land Conservation and Development to “develop an Offshore Wind Roadmap that defines standards to be considered in the processes related to offshore wind energy development and approval.” Oregon Laws 2024, ch 31, §3(1). The Roadmap must support multiple interests of the state and must derive from broad engagement with state agencies, local governments, and affected communities. The Roadmap effort may lead to specific recommendations to amend the state’s existing enforceable policies to suit the effects and interests surrounding offshore wind development. Lessees are encouraged to participate in the Roadmap process.

Because the Offshore Wind Roadmap effort may identify critical information needs or policy amendment suggestions, the OCMP recommends that lessees coordinate their survey activity timing to the maximum extent possible with the conclusion of the roadmap process.

AVAILABILITY OF MEDIATION

In the event BOEM has a serious disagreement with the OCMP’s coastal zone decision, BOEM may request mediation services provided by the Office for Coastal Management or the Secretary of the U.S. Department of Commerce, as provided in 15 CFR Part 930 Subpart G. The OCMP or the Governor of Oregon may also request such mediation services.

If you have any questions about this letter, please contact Jeff Burrigh, Coastal State-Federal Relations Coordinator at 503-991-8479 or by e-mail at: jeff.d.burright@dlcd.oregon.gov.

Sincerely,



Brenda Bateman, Ph.D.
Director

cc: Lisa Phipps, Oregon Coastal Management Program, Manager

Attachment: Compilation of written comments received during the federal consistency review.

Link: https://www.oregon.gov/lcd/OCMP/FCDocuments/OSW-FC-Public-Comments_COMPLETE.pdf