Various measures in the Inflation Reduction Act (IRA), signed into law on August 16, 2022, create new momentum for offshore wind in California. However, as with all things in life, it's never that simple. In this case, the IRA ties offshore wind (OSW) leases to offshore oil and gas auctions and prevents OSW leases from being issued until millions of acres in offshore oil and gas leases have been offered through at least one sale. However, because the IRA also requires that an 80-million-acre offshore oil and gas lease sale in the Gulf of Mexico proceed by September 16, 2022, there may be a way to keep California's upcoming offshore wind lease auction at least somewhat on track.

The connection between offshore fossil fuel and wind lease sales works like this. The IRA, in Section 50265, provides that for ten years from August 16, 2022 (the date the IRA was signed) no offshore wind leases can be issued under section 8(p)(1)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)(C)) unless an offshore oil and gas lease sale has been held in the year before the offshore wind lease was issued and at least 60 million acres were offered in all offshore "lease sales." An offshore lease sale is defined as an oil and gas lease sale held under the Outer Continental Shelf Lands Act, after which, if any acceptable bids have been received, leases are issued.

This IRA provision potentially sets up a challenge for California offshore wind proponents, as the Humboldt and Morro Bay Wind Energy Areas are slated for a lease auction this fall. How can the Bureau of Ocean Energy Management (BOEM), the relevant agency, manage a lease sale of at least 60 million acres in offshore oil and gas before the fall so that offshore wind leases can be issued to the winning offshore wind bidders in Morro Bay and Humboldt? The answer may lie in several offshore oil and gas lease sales, which the IRA reinstates.

For example, Lease Sale 257, totaling 80 million acres in the Gulf of Mexico, was put on pause earlier this year by a court ruling vacating the sale. The IRA mandates that the sale on this parcel resume. Specifically, under Section 50264, BOEM must accept the highest bid for each tract within the lease sale area within 30 days after the enactment of the IRA (which would be September 16, 2022) and then proceed to issue a lease. In good news for California, the accelerated timeline of Lease Sale 257 appears to help meet the minimum threshold requirement on acreage and timing for offshore wind lease issuances.

It's possible that the California offshore wind timeline could also be impacted by developments forthcoming in a possible permitting bill. It is unclear whether the

permitting bill, a compromise between Senator Schumer and Senator Manchin struck as a side deal to allow passage of the Inflation Reduction Act, will actually go forward. If it does, some have suggested that carveouts could be included to lessen the impact of the IRA provisions on offshore wind — for example, by offering less desirable parcels for sale. After all, if no "acceptable bids" are received, there appears to be no requirement that BOEM offer an offshore oil and gas lease. While this could be helpful in the long term, such a provision would not actually help California in the near future, as the state is barreling towards a lease auction in a matter of months.

Further complicating the picture is that oil and gas companies are not clamoring to bid on offshore oil and gas leases. The total number of acres being leased in the Gulf of Mexico, the location with the most offshore leasing activity, has diminished by over two thirds in the last decade because of market and other considerations. Fewer than half of the offshore acres under lease in the Gulf are currently producing or are slated for development.

A delay in California's fall lease auction could change the economics of offshore wind projects, increasing risk for bidders and making these projects harder to pencil out. But it appears that Lease Sale 257 might offer the state an out. Anecdotally, BOEM has said they are on track to continue with the previously announced fall offshore wind auction. Here at CLEE, we'll be watching upcoming developments and monitoring BOEM's public statements to see which way the wind blows.