

BUREAU OF OCEAN ENERGY MANAGEMENT
DRAFT FISHERIES MITIGATION GUIDANCE
SUMMARY OF FEEDBACK RECEIVED DURING PUBLIC MEETINGS
AUGUST 2022

This summary captures, synthesizes and distills exchanges between lead staff at the Bureau of Ocean Energy Management (BOEM) and regional stakeholders during four virtual meetings. In these sessions, participants asked questions and received feedback on draft guidance for mitigating the potential impacts of offshore wind development on commercial and recreational fishing. BOEM hosted these virtual meetings between July 11 and July 25, 2022.

Meeting Focus	Meeting Date and Time	Number of Meeting Participants
East Coast	July 11, 9 – 11 a.m. ET	215
West Coast	July 15, 11 a.m. – 1 p.m. PT	158
Gulf Coast	July 18, 9 – 11 a.m. CT	115
Developers	July 21, 9 – 11 a.m. ET	58

This distillation is meant to provide an overview of the comments received during these meetings without attribution or weight. This summary does not encompass formal written comments received during the 60-day public comment period. Written comments can be found at Regulations.gov: <https://www.regulations.gov/docket/BOEM-2022-0033>.

FEEDBACK ON FISHERIES COMMUNICATION AND OUTREACH

BOEM should consider:

- Online resources on the BOEM website that are more accessible and easier to find.
- More time discussing the guidance with the public.
- Establishing a greater presence through field offices (in southern New England or adjacent to active ports).
- Increasing outreach to underserved populations especially concerning access to wild-caught seafood from shore-based or small vessel fishing activity.
- Providing a simplified version of project-specific mitigation plans and this guidance to use for community outreach.

FEEDBACK ON GENERAL APPROACH

BOEM should consider:

- Reconciling the new guidance with elements contained in guidance supporting the National Environmental Policy Act (NEPA) site assessment plans and community benefit agreements.

- Conducting a Programmatic Environmental Impact Statement (PEIS) to identify conflicts and mitigation for all projects.
- Designing mitigation that is regional or state-by-state in order to accommodate regional dynamics.
- Commercial fishing a reasonable use of the ocean.
- Community-focused mitigation.
- Clarifying whether impacts would be addressed through programmatically or on a case-by-case basis.
- Applying the guidance to existing leases.

FEEDBACK ON SAFETY MEASURES

BOEM should consider:

- Clarifying how to determine who is responsible for reporting broken turbines and how to define appropriate repair timelines.
- Clearly defining what or which mechanisms are available to the public to enforce lease stipulations related to safety, search and rescue, and marine radar systems.
- Identifying the different fisheries in specific areas so that vessels know who can access areas and move safely around.
- Exploring whether solid-state doppler radar would be a sufficient response to interferences to radar and an adequate means for addressing safety concerns.
- Using for-hire fleets for solid-state doppler technology upgrades.

FEEDBACK ON ENVIRONMENTAL MONITORING

BOEM should consider:

- Conducting studies on cumulative environmental and economic impacts.
- How to mitigate habitat stock loss from fishermen moving from traditional grounds, and which party will bear the burden of proof of loss.
- Permitting more research arrays prior to commercial leasing.
- The impacts on catch quotas and fisheries certification scores from bottom trawl surveys.
- Addressing potential interruptions to scientific surveys conducted in the Gulf of Mexico.

FEEDBACK ON FINANCIAL COMPENSATION

- Process – BOEM should consider:
 - Clarifying what type of information is needed to file a mitigation claim.
 - Clarifying “lessee should fully compensate for the repair or replacement of the damaged gear and up to 50% of gross income loss during the period from the discovery of the lost or damaged gear to when the gear is repaired or replaced.”
 - Clarifying how asset depreciation would be mitigated.
 - Prohibiting states from handling compensation and mitigation funding.
 - Addressing the potential lag time between loss and mitigation payments
 - Clarifying whether mitigation funds would be supported via state taxpayers.
- Cumulative impacts – BOEM should consider:

- Addressing cumulative impacts more specifically in the guidance.
 - Addressing cumulative impacts to larger areas but due to one project.
 - Clarifying the threshold needed to achieve/access cumulative impact mitigation funds.
 - Honoring claims within three years after income loss.
 - How to address impacts that cannot be mitigated.
- Eligibility – BOEM should consider:
 - Clarifying whether secondary, social, or economic impacts would be considered.
 - Revenue loss and other impacts to:
 - Processors
 - Suppliers
 - Harvesters
 - Harbors
 - Subsistence fisheries
 - Clarifying if fishing vessels are eligible for compensation when fishermen have to move during construction (e.g., due to noise impacts on marine species).
 - Determining if “recreational fisheries” includes for-hire and private fleets.
- Enforcement – BOEM should consider:
 - Clarifying how developers are held accountable if guidance is not followed.
 - Developing an oversight process to determine the accuracy of economic impact estimates and how the fishing industry could contest these estimates.
 - Clarifying who administers funds and how lessees can source a third-party administrator.
 - Clarifying whether BOEM, the developer, or a third party determines the validity or amount of mitigation claims.
 - Clarifying who determines impacts on gear usage and additional gear changes.
 - Providing a process for industry and fisheries to resolve contentious issues and disagreements.
 - Motivating developers to negotiate fairly and equitably with fisheries.
- Compensation rates – BOEM should consider:
 - That 50% compensation for lost wages associated with gear loss and damage claims is not enough to sustain livelihoods.
 - Providing compensation if fishermen can still not fish due to development after five years.
 - Clarifying whether 1-2% for mitigation is prescriptive for all claims (in reference to the economic multiplier example in Appendix A).