



# BOEM Bureau of Ocean Energy Management

Request for Information

Guidance for Mitigating Impacts to Commercial and Recreational Fisheries from  
Offshore Wind Energy Development

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November 23, 2021 – January 7, 2022

# Agenda

- Welcome and Opening Remarks
- Logistics and Agenda Review
- Overview of BOEM's Request for Information to inform its Guidance Document to Mitigation Potential Impacts to Fisheries
- Public Feedback Period
- How To Submit Written Public Feedback
- Next Steps, and Adjourn



# Meeting Objectives

1. Describe the process for developing draft guidance to key stakeholders and answer questions.
2. Provide information on how to submit feedback during the Request for Information.
3. Receive feedback on key issue areas.



# Purpose of this Engagement Effort

To provide information and perspective to the Bureau of Ocean Energy Management (BOEM) to inform BOEM's development of draft guidance on avoiding minimizing and, if needed, compensating for impacts from offshore wind energy projects to commercial and recreational fisheries.



# What Is BOEM Asking of the Fishing Industry?

- Please provide us your comment and perspective on what BOEM should include and consider in the development of draft guidance expected in the spring of 2022.
- You may provide feedback through:
  - Comments today.
  - Written comments by January 7, 2022.
  - Through additional comments on the draft guidance once developed.



# Why Have Fisheries Mitigation Guidance?

- BOEM considers the impacts to the commercial and recreational fishing industries resulting from the approval of Site Assessment Plans and Construction and Operations Plans.
- BOEM conducts NEPA reviews, which identify potential impacts that offshore renewable energy projects may have on the environment and ocean users, such as the commercial and recreational fishing.
- BOEM must consider these impacts per project and that analysis may support the need for mitigation measures.
- BOEM has not provided detailed guidance to the offshore wind industry regarding processes and methodologies for reducing impacts to fisheries. This has resulted in inconsistencies between projects in mitigating impacts.
- It is hoped that Federal guidance will provide greater consistency for equitable treatment of fishermen regardless of home or landing port.
- Nine eastern states have identified to BOEM the need for and benefits of regional natural resource impact assessment and mitigation frameworks.



# What Potential Impacts Has BOEM Identified?

Potential fishery impacts could include, but are not limited, to:

- Displacement from fishing grounds during offshore wind development activities or loss of fishing areas occupied by project components.
- Potential gear damage or loss from increased survey activity or new or additional underwater hazards.
- Necessary gear or fishing modifications for fishing near turbines.
- Increased transit times.
- Increased gear conflict or operational competition within and outside of wind project areas if fishing effort is shifted due to offshore wind energy projects.
- Secondary economic impacts for support businesses such as seafood dealers, vendors to the fishing industry (e.g., bait and tackle, gear supply), processors, and distributors.



# What is Mitigation?

- BOEM considers “mitigation” to encompass the full suite of activities to avoid, minimize, and compensate for adverse impacts.
- BOEM is taking a National level approach to mitigation for its offshore renewable energy program.
- This concept is reflected in the Council of Environmental Quality’s definition of mitigation.



# What Topic Areas are BOEM Considering in the Guidance?

The mitigation hierarchy is at the core of BOEM's report on Fishing Best Management Practices (BMPs) published in July 2014. It identified five BMP areas:

- Fisheries communication and outreach (guidance already issued in 2015 and modified in 2020)
- Project siting, design, navigation, and access
- Safety
- Environmental monitoring
- Financial compensation



# What Can BOEM's Guidance Do?

- **Recommend fisheries mitigation processes** (including processes for filing claims, timing of initial proposals).
- **Recommend methodology to determine the sufficiency of funds to compensate fishing communities** for negative economic impacts arising from offshore wind energy development activities approved by BOEM.
- **Propose measures** that could result in fair, equitable, and predictable methodologies used by developers **for mitigating impacts** of offshore wind energy on all offshore renewable energy projects.
- **Enforce compliance with contributions proposed by the lessee** that were part of the approved Construction and Operations Plan (COP) or other appropriate plan approval, regardless of said contributions being required by a state or not.



# What Can't BOEM's Guidance Do?

- **Create a central fund.** BOEM lacks legal authority to create or oversee a central funding mechanism for compensatory mitigation. BOEM also lacks authority to require contributions to a particular compensation fund, absent a previous commitment or obligation for the lessee to do so (e.g., commitment/obligation under state contracts or the proponent's own proposed COP).
- **Administer funds.** BOEM lacks the legal authority to hold funds received or assess industry fees for mitigation.
- **Require regional mitigation.** BOEM cannot require a lessee to mitigate regional impacts as part of a COP approval, unless BOEM's environmental impact analysis demonstrates the regional impacts of the specific project. This environmental impact analysis must be supported by the record and the effects analysis cannot be based on speculation.



# Feedback is Welcome on Topic Areas Identified in the BMPs:

- General approach
- Project siting, design, navigation, and access
- Safety measures
- Environmental monitoring plan
- Financial compensation



# General Approach

- Should BOEM develop mitigation guidance for some or all of the BMP topic areas and how should they be prioritized?
- Are there specific strategies, process steps, and engagement components for minimizing impacts and obtaining information requested in the topic areas?
- Should the topics be addressed from a national or a regional perspective and why?



# Project Siting, Design, Navigation, and Access

- What processes and engagement between fishermen and developers for a particular project site could help BOEM identify specific project layouts that avoid, minimize, or mitigate impacts to fishing, and to ensure that parties are satisfied with the engagement?
- Are there project design criteria for avoiding or minimizing impacts to fishing that the guidance should include (e.g., distance between turbines, clustering or spacing of turbines, orientation of turbines, setbacks or other means to address particular regulated fishing areas, such as Essential Fish Habitat (EFH), rotational fishing areas, closed fishing areas, or other similar regulatory spatial designations)?
- Are there evidence-based project criteria for avoiding or minimizing impacts to fishing from both export and inter-array electric cable layout, location, burial depth, and cable protection measures?
- Are there evidence-based criteria or guidance, such as scale and size of projects, number of affected vessels, distance between projects, and other factors, that would avoid or minimize impacts to navigation and fishing activities within a project area?



# Safety Measures

- What specific safety measures or specifications should be included in the guidance?
- Is there specific training that is necessary to improve safety?
- Are there specific navigational or fishing products/equipment that could improve safety?
- Is there existing guidance issued by U.S. agencies, state agencies, or international bodies that should be incorporated by reference?



# Environmental Monitoring Plan

- What data should be collected to understand fishery performance (e.g., changes in catch, transit, and/or fishing itself) in and around offshore wind facilities?
- What methods should be used to analyze such data?



# Financial Compensation – part 1

- Data-related considerations:
  - What data sets should be used to calculate compensation for fishing losses?
  - How should data be handled for fisheries that currently lack more complete datasets (e.g., small fisheries, more distributed fishing, fixed gear fishing)?
- What is the expected extent of historical data that should be considered in calculating losses not otherwise mitigated?
- How should future conditions, such as changing fishery presence and abundance due to climate change, be handled in calculating financial compensation?
- What role should relevant states agencies have in ascertaining estimated economic impacts and the mitigation process more broadly?
- What types of guidance should be included regarding compensation (e.g., gear loss, fishing loss) before or during construction, losses post construction in the shorter term or longer term?



# Financial Compensation – part 2

- What methodologies are appropriate for calculating economic impacts resulting from pre-construction, construction, and post-construction?
- How should the costs of gear modification, gear design, and changes in practices in order to fish within wind turbine arrays be addressed?
- What considerations for administration of funds should be included in the guidance, recognizing that BOEM cannot receive, distribute, or directly manage the funds?
- How can the guidance provide parameters for the inherent uncertainties posed by a new industry, dynamic environmental conditions, other ocean uses (e.g., shipping, telecommunications, sand and gravel), and climate change?
- Eligibility considerations:
  - How should the guidance identify those eligible for compensation (e.g., by valid federal fishing permit, valid vessel registration, vessel monitoring systems (VMS), automated identification systems (AIS) or fishing vessel trip reports/logbooks)?
  - How should the guidance address which sectors (e.g., commercial, recreational, shoreside) or members of a particular sector (e.g., captains, owner/operator, crew, dealers, processors) are eligible under a compensation framework?
- How often should the fisheries mitigation guidance be re-evaluated?



# Feedback is Welcome on Topic Areas Identified in the BMPs:

- General approach
- Project siting, design, navigation, and access
- Safety measures
- Environmental monitoring plan
- Financial compensation



# How to Submit Written Public Feedback



# Written Public Feedback

You can provide feedback by January 7, 2022 at:

<https://www.regulations.gov/docket/BOEM-2021-0083>

More information can be found at:

<https://www.boem.gov/renewable-energy/fishing-industry-communication-and-engagement>

# Timeline, Next Steps, and Adjourn



# Timeline for Developing Guidance

- Fall/Winter 2021:
  - Identify ideas and considerations from the fishing community, offshore wind energy developers, and others to inform the draft guidance.
- Early Winter 2022:
  - Develop draft guidance considering comments received.
  - Work in consultation with NOAA/NMFS, state fishery and coastal management agencies, and technical experts to develop the draft guidance.
- Early Spring 2022:
  - Publish draft guidance and discuss with constituents.
- Summer 2022: Issue final guidance.





# BOEM Bureau of Ocean Energy Management

**Thank you!**

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