

## **APPENDIX E**

### **Public Comments and Bureau of Ocean Energy Management Responses**

## Introduction

The Bureau of Ocean Energy Management (BOEM) issued a news release starting the Morro Bay Wind Energy Area Environmental Assessment (EA) on November 11, 2021. During the public 60-day scoping period from November 11, 2021 to January 11, 2022, BOEM received 1,262 comments from the public, agencies, and other interested groups and stakeholders. This included 88 unique submissions, with 1,175 form letters and additional unique oral comments from two virtual public comment meetings. BOEM then issued a news release on April 5, 2022, announcing the availability of the Draft EA and providing the public the opportunity to submit comments on [www.regulations.gov](http://www.regulations.gov). During the 40-day public comment period on the Draft EA from April 4 to May 16, 2022, BOEM received a total of 43 comment submissions in Docket No. BOEM-2021-0044. In addition, BOEM hosted two virtual public meetings to explain the wind energy leasing and environmental analysis process, communicate key points in the EA, and allow the public and other interested parties to ask questions and then provide oral testimony. Please note that transcripts and recordings of the four virtual public comment meetings are available at [boem.gov/morrobayea](http://boem.gov/morrobayea). Numerous virtual meetings and email correspondence occurred with other interested stakeholder individuals and groups when requested. BOEM met virtually with shipping industry representatives in April 20 and May 23, 2022. BOEM met virtually with non-governmental environmental group representatives at three points in 2022. Meetings in-person with commercial fishing groups were held with California state agency representatives and BOEM on November 29 and 30, 2021 and again on May 16 and 17, 2022 in Santa Barbara and Morro Bay, California.

To view commenter names and the full text of all comments submitted, go to [www.regulations.gov](http://www.regulations.gov) and enter BOEM-2021-0044 in the “Search” box. Once the docket opens, click “Request for Comments on Outer Continental Shelf offshore Morro Bay, California Wind Energy Area, Draft Environmental Assessment.” Then click “Browse Posted Comments.” Scrolling to earlier dates will show the scoping and Call Area comments received and considered for this document.

## Public Comments

### Scope of the Environmental Assessment

#### Comment Summary

The majority of public comments either requested analysis of impacts of siting, construction, and operation of wind generators on the Outer Continental Shelf (OCS) or assumed this had been done in the EA. Many commenters expressed opposition to or concern about wind energy development due to potential impacts of wind turbine construction and operation to commercial fishing, marine navigation, biological resources, cultural resources, viewsheds, and environmental justice (EJ) communities. Several commenters asked that BOEM conduct a Programmatic Environmental Impact Statement (EIS) to evaluate all impacts of siting, constructing, and operating a wind energy project prior to leasing. Many commenters provided information or scientific references in support of such EIS level of analysis or asked for additional analysis on topics related to wind energy. One commenter said a Record of Decision is required for the EA. Another requested that BOEM include a discussion of the Diablo Canyon area in the EA.

#### BOEM Response to Comments

Analysis of siting, constructing, operating, and decommissioning a wind turbine generator is beyond the scope of this EA. Section 2.1 of the EA explains that the Proposed Action for this EA is the issuance of

commercial wind energy leases and associated easements within the Morro Bay Wind Energy Area (WEA) that BOEM designated on the OCS in the vicinity of San Luis Obispo County, California. BOEM regulations stipulate the agency must first identify the areas for environmental analysis and consideration for leasing. This was done in an Area Identification Memorandum (Appendix A); Diablo Call area was not considered at that time.

Issuance of leases would only allow for the submittal of survey plans for site assessment and characterization. The lease also allows for the submission of Site Assessment Plans (SAPs) for BOEM’s consideration and approval. Therefore, BOEM’s environmental analysis focused on reasonably foreseeable environmental consequences of activities expected to take place after issuance of commercial leases—specifically, site characterization (i.e., surveys of the lease area and potential cable routes) and site assessment activities (i.e., temporary placement of up to three meteorological (met) buoys on each lease) within the WEAs. The identification of WEAs for environmental analysis and leasing consideration does not constitute a final leasing decision.

Comments that supplied specific information, scientific research, or raised specific concerns regarding the impacts of commercial wind turbine development such as possible impacts to marine navigation, commercial fishing, marine life including elephant seals, birds, viewsheds, environmental justice communities, and scientific surveys are noted, but are outside the scope of this action. BOEM encourages these commenters to remain engaged in coming years if and when a Construction and Operations Plan is submitted to BOEM for renewable energy development of these areas.

A programmatic NEPA review is used to assess the environmental impacts of a proposed action that is broad in reach by tiering early-stage actions from later-stage actions. Agencies tier NEPA documents to focus on the issues ripe for decision and exclude from consideration issues not yet ripe at each level of environmental review (40 CFR § 1501.11). Due to unknowns about project details (e.g., number of turbines, placement, turbine size, etc.) and the evolving nature of technology, BOEM does not consider impacts from construction and operations to be ripe for discussion. BOEM retains the regulatory authority to prevent the environmental impacts of a commercial wind power facility from occurring by disapproving a Construction & Operations Plan (COP). BOEM used this approach numerous times for leasing offshore wind on the Atlantic OCS.

The requirements for an Environmental Analysis are described at 40 CFR 1501.5 (c), which directs agencies to “(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact; and (2) Briefly discuss the purpose and need for the proposed action, alternatives as required by section 102(2)(E) of NEPA, and the environmental impacts of the proposed action and alternatives, and include a listing of agencies and persons consulted.” BOEM’s Subject Matter Experts considered the impacts of site assessment and site characterization activities in this document. Resources that will not be impacted by these actions are not mentioned or not described in detail in the EA.

If the agency determines, based on the environmental assessment, that the proposed action will not have significant effects, a Finding of No Significant Impact (FONSI) is issued. Regulations describing FONSI are at 1501.6. A Record of Decision is not issued with an EA.

## **Impacts Analysis**

### **Comment Summary**

A few commenters said that a cumulative impacts analysis that considers all aspects of leasing, including wind turbines, is required. A couple of commenters said that a cumulative impact analysis should also consider climate change.

#### BOEM Response to Comments

A cumulative impacts analysis ensures that the impacts of the proposed action are considered in the proper context of other potential impacts on a particular resource. The EA describes the baseline conditions of the physical, biological, and human environment in the Morro Bay area in the Affected Environment sections of the EA, which provides context for comparison of how concurrent and future actions may impact these resources. Appendix B further describes projects and activities that may overlap in time or space with the impacting factors described in this EA.

### Environmental Resources

#### Comment Summary

Several commenters raised concerns about the effects of siting, construction, and operation of wind turbines on air quality, water quality, marine mammals (one commenter specifically addressed possible impacts to elephant seals), sea turtles, benthic habitats, and marine and coastal birds.

Comments on impacts to marine mammals included individual species analysis, collision, entanglement, and displacement. Several commenters expressed concern regarding potential impacts of vessel traffic to marine mammals, including the risk of injury or mortality from vessel collisions. A few commenters urged BOEM to incorporate a 10-knot vessel speed limit for project-related vessels. Another commenter expressed a need for accurate mapping of cetacean migratory patterns through the WEA and nearby the Oregon Call Area before BOEM considers any leases. One commenter said that negative impacts to sea turtles have not been thoroughly evaluated.

Comments on the effects of wind turbines on coastal and marine birds included concerns about collision risk and noise impacts. Bird species mentioned by commenters include the Black Brant, Whimbrel, Marbled Godwit, Western Snowy Plovers, albatross, pelicans, California Condors, Bald Eagles, and Golden Eagles. A commenter brought up concerns regarding the potential effect to diving birds from underwater noise and the potential effects to migratory shorebirds from vessels and lights. They also provided additional sources of information on studies that have evaluated how birds react to underwater noise.

#### BOEM Response to Comments

The scope of the NEPA analysis in the Morro Bay EA is focused on the impacts of site assessment and site characterization activities. Activities associated with siting, constructing, and operating of wind energy projects will be considered in subsequent NEPA analyses. Impacts to marine mammals, sea turtles, and marine and coastal birds from site assessment and characterization, including impacts from noise and vessel traffic, are described in Sections 3.5 and 3.6 of the EA. Section 3.5.2.5 of the EA was revised to clarify potential impacts to sea turtles. Entanglement is addressed in Section 3.5.2.4. Resources that are not mentioned in the EA are not expected to be impacted by these activities.

BOEM, in cooperation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service (USFWS), has also developed Standard Operating Conditions to minimize or eliminate potential impacts to protected species, including Endangered Species Act (ESA)-listed species of marine mammals and sea turtles (see Appendix D). The additional literature on impacts to birds from seismic surveys, noise, and

lights, while informative, does not change the conclusions in Section 3.6.2 of the EA. Section 3.6.2.1 notes that the level of vessel traffic for the Proposed Action is not a significant increase when compared to existing vessel traffic in nearshore or offshore waters.

## **Commercial Fishing**

### **Comment Summary**

Commenters expressed concern that the Morro Bay WEA would negatively impact the local commercial fishing industry. Groups and individual fishermen highlighted different impacts to the fishing industry and their livelihood. A few commenters said surveys that last 5 years would create long-term impacts. Other commenters asked that BOEM engage with commercial fishermen about the impacts of surveys to fish behavior and posited that noise from geological surveys creates harmful impacts to fish. Commenters requested that anyone engaged in any ocean survey study be required to communicate with the local fishing industry and that all buoys be marked and mapped and this information provided to fishing vessels. A commenter noted potential interaction between site assessment survey vessels and commercial and recreational fishing vessels, stating that these interactions can be minimized with careful advanced planning and communication.

BOEM received comments related to data sources used in the EA. One commenter disputed the use of/adequacy of vessel monitoring system (VMS) data, saying that it does not paint a complete picture of fishing activity or potential offshore Morro Bay and that the EA mischaracterized potential impacts to local fishing. Another comment explained that the fishery offshore Morro Bay is a transition area with unique oceanography causing the fish to change and fisheries come and go over time. Multiple commentors with experience in commercial fishing specifically mentioned that while tuna has been absent from the Morro Bay WEA for 25 years, it will come again. Commenters based out of Morro Bay also explained that boats from Morro Bay go to the north coast of California and boats from Oregon and northern California come offshore Morro Bay when the fish are present.

There was a request to extend exclusion zones into the future. Some commenters expressed concern regarding potential economic consequences for the fishing industry that exists in the Morro Bay WEA. One commentor suggested that BOEM assist in finding other areas for the fishing industry to replace the economic loss from the Morro Bay WEA. Multiple commenters requested meaningful participation and more involvement in the general offshore wind process currently and into the future.

### **BOEM Response to Comments**

Impacts to commercial fishing from site assessment and site characterization activities are described in Section 3.7.2 of the EA, which explains that while space-use conflicts are possible, the area of effect would, for most fisheries, be confined to a small portion of the total area available for fishing. Section 3.7.2 was revised with additional support for impact conclusions. The Section now includes additional information clarifying sound impacts from high-resolution geophysical surveys. The EA also notes that potential impacts to commercial fishing from the Proposed Action are expected to be temporary in duration (5 years or less) at intermittent durations within that time and not continuous actions.

With regards to data sources used in the EA, Section 3.7.1 was revised with the correct table of landings for the Morro Bay Port Complex. BOEM also determined that including historical vessel traffic data from current fisheries, or from additional fisheries such as albacore tuna, in the analysis would not change the conclusions of the EA since site characterization activities are temporary and only occur within a small proportion of the total available fishing grounds affected at any time.

Impacts to commercial fisheries will be analyzed in detail if BOEM receives a site-specific COP in the future. To prepare, BOEM is funding work and meeting with NOAA, state, and academic partners to improve datasets that link offshore fishing patterns to the value of fisheries and to the economic consequences to the fishing industry and port communities. BOEM staff agree on the importance of meaningful participation and partnered with California State representatives to meet in-person with commercial fishing groups on November 29 and 30, 2021, and again on May 16 and 17, 2022, in Santa Barbara and Morro Bay, California. Additional meetings are planned for summer 2022.

## **Recreational Fishing**

### Comment Summary

A few commenters expressed concern about the impact of wind turbines to recreational fishing. One commenter asked if the impacts analysis in the EA is based on the assumption that no areas within the WEA will be closed at any time to recreational fishing during site assessment and characterization activities.

### BOEM Response to Comments

Recreation and Tourism is addressed in Section 3.8 of the EA. Section 2.2.4 describes the information and assumptions (including survey, sampling, and vessel traffic assumptions) used as the basis for analysis in the EA. Further site-specific impacts to recreational fishing during project construction and operation activities will be considered during the COP review process. The impacts of wind turbines to recreational fishing are outside the scope of this document.

## **Compliance and Monitoring**

### Comment Summary

Commenters requested to see plans to ensure that lessees are limiting their activities to approved guidelines or requirements, and to see how the region is protected against lessee non-compliance (e.g., use of equipment that create unacceptable noise levels underwater). Other commenters asked for robust monitoring and adaptive management for floating offshore wind energy projects to minimize harm to local ecosystems and move smoothly through the permitting process. A commenter stated that BOEM should require lessees to conduct ongoing monitoring for impacts from site characterization and assessment, including changes to species diversity and density, and ecosystem disruption. Another commenter asked that BOEM and future lessees work with local fishermen and NOAA's Northwest and Southwest Fisheries Science Centers to find suitable locations for buoys.

### BOEM Response to Comments

Mitigation and monitoring requirements for floating offshore wind energy projects are beyond the scope of this EA.

Requirements for mitigation measures included with an EA/FONSI are described at 40 CFR 1501.6 (c):

“The finding of no significant impact shall state the authority for any mitigation that the agency has adopted and any applicable monitoring or enforcement provisions. If the agency finds no significant impacts based on mitigation, the mitigated finding of no significant impact shall state any enforceable mitigation requirements or commitments that will be undertaken to avoid significant impacts.”

BOEM's analysis of the impacts of site assessment and site characterization in the Morro Bay EA did not disclose any major/significant impacts and no mitigation measures were specifically developed to avoid significant impacts. However, BOEM does include with the EA a list of Best Management Practices (Appendix D) BOEM anticipates will be employed during all OCS operations. To further enhance safety, compliance, and environmental stewardship, lessees will have to follow conditions of approval pending consultations with Federal and state agencies, as well as lease stipulations, and develop a SAP that will include site-specific mitigation measures. A Lessee is subject to BOEM's regulation regarding accidental or willful noncompliance of the lease and conditions associated with the lease, as described in 30 CFR 585.400. BOEM may issue a notice of noncompliance directing the Lessee to take immediate remedial action to alleviate threats and to abate the violation and, when appropriate, a cessation order. BOEM may assess civil penalties and if fail to comply, civil penalties will be determined and assessed in accordance with the procedures set forth in 30 CFR part 550, subpart N. A Lessee may be subject to criminal penalties as authorized by section 24 of the OCS Lands Act. More information is available on the BOEM website (<https://www.boem.gov/renewable-energy/regulatory-framework-and-guidelines>).