

**BUREAU OF OCEAN ENERGY MANAGEMENT
FISHERIES MITIGATION GUIDANCE DEVELOPMENT
EAST COAST WORKSHOP ON FIXED GEAR
DECEMBER 6, 2021
10 A.M. – 12 P.M. ET
VIRTUAL MEETING**

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MEETING OVERVIEW

Process Background

- The Bureau of Ocean Energy Management (BOEM), in consultation with the National Marine Fisheries Service (NMFS) and affected coastal states, is developing guidance for the mitigation of impacts from offshore wind energy projects on commercial and recreational fishing communities.
- To initiate the development of this guidance, BOEM issued a 45-day Request for Information (RFI) to obtain input from the public. The comments and information received will inform BOEM's development of draft guidance to mitigate certain impacts of offshore wind energy projects to commercial and recreational fisheries.
- Once complete, the draft guidance will be shared with the public for review and input for a 45-day comment period. Guidelines developed through this process may be updated periodically based upon public feedback and evaluation by BOEM staff.

Meeting Purpose

- Present the process for developing the draft Guidance for Mitigating Impacts to Commercial and Recreational Fisheries from Offshore Wind Energy Development to key stakeholders and answer questions.
- Provide information on how to submit comments during the public comment process.
- Receive comments on key issue areas.

Agenda

- Welcome and Opening Remarks
- Logistics and Agenda Review
- Overview of BOEM’s Request for Information to Inform its Guidance Document to Mitigate Potential Impacts to Fisheries
- Public Comment Period
- How to Submit Written Public Comments
- Timeline, Next Steps and Adjourn

Presenters

James Bennett (opening remarks)	BOEM
Brian Hooker	BOEM

Agency Representatives

Brian Hooker	BOEM
Doug Christel	NMFS

Facilitation Team

Julielyn Gibbons	Kearns & West
Adam Saslow	Kearns & West
Anna Rossi	Kearns & West

Participants

One-hundred and ten (110) people attended the meeting. A complete list of registrants is included as an appendix to this summary. Fifteen (15) people provided public feedback.

PRESENTATION HIGHLIGHTS

Welcome and Opening Remarks

- Adam Saslow, facilitator, Kearns & West, welcomed attendees, and reviewed the meeting logistics and agenda. He emphasized that the meeting is intended as a conversation between BOEM and fishermen and asked other attendees to remain primarily in listen-only mode.
- James “Jim” Bennett, Program Manager for BOEM’s Renewable Energy Program, welcomed participants. Mr. Bennett emphasized the importance of BOEM’s work in fisheries mitigation as offshore wind projects develop. Mr. Bennett discussed the Biden-Harris Administration’s “30x30” goals, which aim to secure 30 gigawatts of offshore wind

energy by 2030. Mr. Bennett mentioned that these goals will result in thousands of good-paying, union jobs. He added that:

- BOEM's authority to mitigate impacts is afforded by the Outer Continental Shelf Lands Act (OCSLA), which seeks to minimize or avoid impacts. OCSLA allows BOEM to establish compensation if these impacts are unavoidable.
- The guidance will clarify what developers should consider before submitting their plans, and how developers can engage the commercial fishing industry.
- BOEM is not creating a general fund, as they are required to submit all funds to the U.S. Department of Treasury.
- The goal is to offer more transparency and establish a clear process around fisheries mitigation by summer 2022 to support BOEM's environmental analysis for the construction and operations of several East Coast projects.
- BOEM will use information from this dialogue, and from discussions with federal, state, and Tribal partners to shape future mitigation discussions and develop a lasting engagement strategy that prioritizes science and meaningful collaboration.

Presentation

- Overview of BOEM's Request for Information to Inform its Guidance for Mitigating Impacts to Commercial and Recreational Fisheries from Offshore Wind Energy Development (Brian Hooker, Lead Biologist, Office of Renewable Energy Programs, BOEM)
- Mr. Hooker's presentation can be accessed at: <https://www.boem.gov/sites/default/files/documents/renewable-energy/BOEM-Fisheries-Guidance.pdf>.
- Mr. Hooker shared that:
 - BOEM is in the initial stage of the fisheries mitigation guidance development process and wants input from fishermen before drafting the guidance document.
 - BOEM can impose mitigation measures, but the guidance would not apply to impacts that are separate from a given project.
 - Financial compensation will likely be handled at a regional level. There are more data on the East Coast than other regions.
 - BOEM is not soliciting input on environmental monitoring of biological resources. BOEM does not want to repeat the efforts of those agencies.

PUBLIC FEEDBACK PERIOD

Public comments generally fell into one of the following topic areas highlighted in the RFI: fisheries communication and outreach; project siting, design, navigation, and access; safety; environmental monitoring; and financial compensation. Specific comments provided are described in greater detail below.

Fisheries Communication and Outreach

- Some compensation models could be available by the end of the year. Many people at the meeting represented hundreds of different organizations, people, gear types, and associations. Some may not speak up because this process overwhelms them. BOEM

should take responsibility for empowering stakeholders to be effective participants and make the meetings more interactive. One meeting per gear type is not sufficient for this engagement. BOEM's timeline for this process limits the number of state meetings that can occur.

- There's concern that fishermen receive information that conflicts with their experiences in coordinating with BOEM and receiving compensation. In one area, two companies' project sites are close or overlap, and future wind turbine development could impact fishing.
 - *Mr. Hooker encouraged people to sign up to continue communications with BOEM.*
- It is difficult to get the message out to fishermen. Some are actively fishing, others do not feel like they have a say and don't communicate issues, and others delete information related to offshore wind from their email inbox. There should be workshops across different states to bring people together. BOEM should focus on accountability of developers. Communication in Rhode Island and Massachusetts is good. The Waterfront app allows developers to populate survey information and allows fisherman to provide location information. The app can be updated in real time and is anonymous.
 - *Mr. Hooker asked for a link to the app. BOEM is currently looking at the Fishing Reports App and other products.*
- There's frustration about the timing and speed at which these conversations are taking place. BOEM appears to be rushing to meet an arbitrary deadline that doesn't allow enough time for the conversations that the industry has been asking for. BOEM should not rush to produce mitigation guidance in early 2022.

Project Siting, Design, Navigation, and Access

- BOEM should define mitigation avoidance, particularly if this meant closing zones around cabling, turbines, and entire project sites. The industry would like standard layout patterns for wind turbines to ensure predictability and ease of movement between sites. BOEM should ensure that Automatic Identification System (AIS) is installed on all wind turbines and vessels, especially for smaller vessels that cannot afford it. BOEM's 10-knot speed limit on vessels eliminates small boats from activities, and should be lifted for vessels under 65 ft, especially when this restriction applies to areas that are not critical habitat.
 - *Mr. Hooker clarified that mitigation avoidance means mitigation from a design approach, not for fishermen. Developers will need to design their projects to avoid specific areas, or mitigation may be included as part of the siting process. Feedback on established, predictable patterns and addition of AIS was helpful. Speed restrictions are being looked at. BOEM's goal is to not be burdensome to the fishing industry.*
- Wind turbines should be placed as far offshore as possible. Most fishing happens closer to shore. New critical habitats could restrict fishing for portions of the year. There's uncertainty whether there's enough room for fisherman, whales, and wind turbines all together. Why can't wind turbines be placed in restricted zones?

- *Mr. Hooker shared that these considerations are part of the environmental review process.*
- There's concern about placing wind turbines in prime fishing zones. Some fishermen lost gear and did not receive compensation. Displacement will be an issue because it impacts both the displaced fishermen and the fishermen who fish in areas that people are displaced to. Wind turbines should be placed one mile offshore, where fishermen are not allowed to fish and to make it easier to remove wind turbines during hurricanes.
- How many turbines are needed to meet the 30x30 goal, and have specific patterns been determined for wind turbines?
 - *Mr. Hooker responded that the 30x30 turbine count depends on both project and turbine size. The rough estimate is 100 turbines per gigawatt. The only layout agreement is in Southern New England. Other projects have proposed layouts in their COPs, which will be evaluated.*

Safety

- There's frustration with the placement of turbines for offshore wind development, and concern about the distance between structures and the safety of navigating around turbines when radar cannot be used near turbines. AIS could help fisherman identify wind turbines.
- Conch fisherman have had gear run over by survey boats, after receiving permission to fish in specific areas. They received little help from agencies and had negative experiences with developers. Developers' surveying schedules change periodically, but fishermen don't always receive notice and don't always receive compensation for damaged gear. There's the impression that survey boats are allowed to destroy gear without consequences, and designated contacts for fishermen to reach in these situations is needed.
 - *Mr. Hooker shared that he is aware of the situation and that the process and communications need to improve. These are examples of situations that BOEM is trying to avoid.*
- Many captains indicate a desire for AIS transponders on every turbine in leased areas to ensure safety, especially when conditions are rough and vessels lose fine scale targets.
 - *Mr. Hooker responded that all projects that have been through an environmental review process plan include AIS transponders in the COPs. However, where the transponder is located throughout the lease area may be different. Transponders may be on all turbines, on the edges of leasing area, or on specific rows of turbines. Guidance could be developed on transponder location.*

Environmental Monitoring

- Has the recreation sector been told that they cannot fish under wind turbines? Recreational fishermen consider turbines as reef for fish, which is a safety hazard. BOEM should consider the long timelines of fisherman movements and research cabling impacts from electricity and sonar impacts on fish movement.

- Fishermen are overwhelmed with conflicting information on wind and whales. The process is rushed. There are concerns over the proximity of wind areas and right whale enclosures, whether whales will be get entangled in gear, whether turbines affect breeding grounds, and whether whale migration will impact fishermen. These questions require greater study before compensation can take place. Why do fisherman and wind developers have different standards regarding access to protected areas?
 - *Mr. Hooker explained that BOEM is required to consult with NMFS under the National Environmental Policy Act, the Magnuson-Stevens Act Fishery Conservation and Management Act, and the Endangered Species Act. Those regulations apply to both fishermen and wind developers.*
- Has BOEM researched whether electromagnetism comes off of cables? Previous research showed that it stunned crabs into dormancy. Surveying boats were allowed to travel at higher speeds around the Cape May right whale protection areas. Some fishermen continue to have negative experiences with survey boats claiming that their AIS is off, and the fishermen continue to lose gear.
 - *Mr. Hooker encouraged fishermen to report incidents to the U.S. Coast Guard. BOEM benefits from knowing about these violations and strives for fairness, equity, and transparency. BOEM and other government agencies completed Electromagnetic Frequency (EMF) studies on the East and West coast, which can be found on BOEM's website.*
- Would BOEM review the 2003 – 2005 NRDC maps where windfarms overlap with marine protection preserves? The areas were identified as prime breeding grounds.
 - *Mr. Hooker responded that NRDC proposed these as biologically important areas and presents them when leases are available.*

Financial Compensation

- There's frustration with the Rhode Island innovation fund for lost revenue from Vineyard Wind. Compensation was 90% less than actual lost revenue and did not compensate for the loss of shoreside businesses. It appears that other permitting processes won't include compensation for loss of shoreside businesses either. Adaptive fishing compensation will not be helpful if fishermen are not allowed access during construction. Trawling will have immediate losses once construction begins. Compensation should be provided directly to those people suffering from past and future losses.
 - *Mr. Hooker responded that states may be in a better place to provide mitigation but need assistance and guidance for future projects. These meetings are the beginning of that process. States are also holding meetings that will inform the draft guidance. Guidance will be considered for future lease terms and conditions, and not applied retroactively. The guidance will focus on COPs, not the work happening up to submittal. Terms and conditions for geophysical surveys may be incorporated into leasing process.*

- How will financial impacts be assessed for fisheries that are not operational right now? Aquaculture needs to part of the conversation, especially as it spreads into federal waters and leasing areas.
 - *Mr. Hooker responded that if there are fisheries in the area that have been exploited but there is no record, BOEM will not know how to design compensation. BOEM would like feedback on how to assess this issue.*
- Who was handling compensation? In Massachusetts it is unclear. One group cannot manage dispersal. It should be regionalized. Fishermen have not had luck conducting appeals.
 - *Mr. Hooker indicated that funding is held by a third party and that BOEM does not have the authority to manage funds. BOEM's guidance cannot address this issue but it does not diminish its importance. Mr. Hooker agreed that the claims process should be straightforward, and that the onus should not be on fisherman to know how the lease is managed.*
- Fish stock and pricing need to be evaluated alongside longer timelines. Fishermen move frequently and have broad fishing grounds and timelines. A single, standardized compensation amount would not be sufficient. The impact is not just on the person, but on the gear as well.
- Compensating fishermen to change gear types would not be helpful, because some have been working with specific gear types and gear-related permits for their entire career. Many fishermen lost fixed gear to collisions with surveying vessels and the reporting mechanism is challenging for fishermen. To file a claim, fishermen are required to provide paperwork showing their permits, and details on where they were set up and what they were doing. Some developers do not disclose collisions, and fishermen are left waiting for resolution. Danish regulations enforce compensation for loss of income, temporary removal or damage of gear, or the distance to travel to new fishing areas. Fishing has variable costs and compensation needs to be fair and long-term.
 - *Mr. Hooker agreed that the compensation processes need to be updated. He asked fishermen to share compensation experiences in writing. The guidance is flexible and can be changed, and there are lessons to be learned from the Danish model.*
- What would it require for BOEM to move from “can establish financial compensation” to “will establish financial compensation,” and would fishermen be compensated if new tackle does not meet new requirements?
 - *Mr. Hooker responded that evidence needs to be evaluated in the environmental review for BOEM to impose compensation on the lessee. Mr. Hooker asked that considerations regarding gear compensation through lost revenue rather than a gear adaptation be addressed in written comments.*
- Mitigation guidelines from other countries should be made available to U.S. fishermen for review. Canada recognizes that the loss of fishing is greater than the loss of fish. Because fishermen in the U.S. fish in multiple areas with multiple gear types more than

three miles off the coast, mitigation guidance should be divided by state or federal waters. BOEM should put mitigation measure in place quickly. Coastal waters are becoming congested with vessels.

The meeting adjourned at 12:15 p.m. ET.

APPENDIX A: PARTICIPANT LIST

1. John Aldridge
2. Lianne Allen-Jacobson
3. Michael Ames
4. Michael Auriemma
5. Michelle Bachman
6. Jerry Barnes
7. Sharon Benjamin
8. Sharon Benjamin
9. James Bennett
10. Bob Bochar
11. David Borden
12. Douglas Boren
13. Annette Bossler
14. Idrissa Boube
15. Bonnie Brady
16. Colleen Brust
17. Danny Bryant
18. Nathaniel Burola
19. Michael Celata
20. Emma Chaiken
21. Douglas Christel
22. David Ciochetto
23. Benjamin Cooper
24. Jennifer Couture
25. Michele Desautels
26. Jarrett Drake
27. Brian Dresser
28. Stephen Drew
29. Jynessa Dutka-Gianelli
30. Brendan Eddy
31. Lorena Edenfield
32. Tina Fahy
33. Marianne Ferguson
34. Darlene Finch
35. Timmothy Froelich
36. Gwen Gallagher
37. Luisa Garcia
38. Connie Gillette
39. Matt Gilley
40. Andrew Gould
41. Kara Gross
42. James Hahn
43. Amalia Harrington
44. Annie Hawkins
45. Heidi Henninger
46. Allison Hepler
47. Fiona Hogan
48. Patrick Irwin
49. Todd Janeski
50. Lane Johnston
51. Jim Kendall
52. David Kielmeier
53. Zachary Klein
54. Sara Krupa
55. Jim Lanard
56. Elizabeth Lange
57. Meghan Lapp
58. Ron Larsen
59. Andrew Lipsky
60. Suzanne MacDonald
61. Sean Mahoney
62. Kim Marshall
63. Marinna Martini
64. Gregory Mataronas
65. Frederick Mattera
66. Tershara Matthews
67. Jennifer McCann
68. Patrice McCarron
69. Ashleigh MCCord
70. Tim McCune
71. Genevieve McDonald
72. Laura McLean
73. Meredith Mendelson
74. Rennie Meyers
75. Kirk Moore
76. Tracey Moriarty
77. Lia Morris
78. Peter Mudrak
79. Oliver Murphy
80. Sarah Murphy
81. Candace Nachman
82. Casey Nolan
83. Kris Ohleth
84. Noah Oppenheim
85. Cheri Patterson
86. Rachael Peabody
87. Ross Pearsall
88. Lisa Pfeiffer
89. Stephen Pigeon
90. Mike Pol
91. Kathleen Reardon
92. Renee Reilly
93. Rick Robins
94. Everett Rzeszowski
95. Mark Sanborn
96. Prianka Sharma

97. Angela Silva
98. Joel Southall
99. Chris Sparkman
100. Erin Summers
101. Stephanie Sykes
102. Doug Taylor
103. Jake Thompson
104. Eric Thunberg
105. Joseph Wagner
106. Kevin Wark
107. Brick Wenzel
108. Kathryn White
109. Kate Will
110. Carl Wilson