

MA Fisheries Working Group on Offshore Wind

Virtual Meeting – December 15, 2023

MEETING SUMMARY

Updates from Massachusetts

Lisa Engler, Massachusetts Office of Coastal Zone Management (CZM), shared the following updates.

- The Bureau of Ocean Energy Management (BOEM) is going through a wind energy siting process in the Gulf of Maine. Since September, they have released draft wind energy areas (WEA) and requested comments. The draft WEA includes 3.5 million acres and ranges from 23 to 120 miles offshore. To refine the fisheries data included in the spatial modeling that BOEM used to delineate the draft WEA, BOEM held meetings at ports and virtually in Maine, New Hampshire, and Massachusetts. The [BOEM Gulf of Maine website](#) has information about the draft WEA and modeling efforts. CZM worked with state agencies, other states, and stakeholders to submit comments on behalf of the secretary and the Commonwealth. Massachusetts' comments are on the [CZM offshore wind website](#) and were shared with this group in advance of the meeting.
 - BOEM shared that the final WEA is expected in spring 2024.
- CZM concluded its federal consistency review of Avangrid Renewables' New England Wind project and [codified an agreement](#) for the fisheries compensatory mitigation package (discussed at prior FWG meetings). The final mitigation package is for almost \$7.4 million, with almost \$5.9 million going to direct payments and \$1.5 million to the innovation fund. The innovation fund will go towards studies on the impact of offshore wind on fisheries resources and technology upgrades for the fishing industry, likely through a grant program. More will be shared on this at future FWG meetings.

The following questions were asked by the working group:

- Q: Are the Avangrid Renewable funds going to be cumulative across projects in southern New England? Or, will additional money be added as other mitigation packages (e.g., gear innovation funds) are established? A: *CZM is looking into their ability to combine these funds with Vineyard Wind funds, which would be the most efficient way to distribute money.*

Fishing Industry Updates

- Beth Casoni (Massachusetts Lobstermen's Association): When will the group that oversees the gear innovation fund meet (MA Vineyard Wind Innovation Fund)? How does that fund relate to the commercial fisheries commission? Ørsted earmarked funds

for navigation but has not rolled them out. Perhaps the Avangrid Renewables funds could supplement Ørsted's if they are not sufficient to cover the southern New England area.

- *CZM: The commercial fisheries commission (CFC) is separate from the commission that oversees the innovation fund. The CFC was established by the legislature last year. The purpose is broader than offshore wind; they are supposed to do an assessment of the fishing industry in Massachusetts. The CFC has very specific membership as defined in the legislation. It is getting established; background checks on commissioners are being processed now.*
- *Massachusetts Department of Marine Fisheries (DMF): The Vineyard Wind innovation group was created as part of an MOU to accept the Vineyard Wind innovation funds. It has nine members and has met twice, though not recently.*
- *DMF: CZM and DMF are revamping their websites to contain information about compensation funds, including instructions and applications.*

Boulder Relocation and Management Guidance Framework

Hollie Emery, CZM, presented the boulder relocation and management guidance framework document, which was shared in advance of the meeting. CZM is trying to understand the magnitude of the impact of boulder relocation and, in future projects, how the impact could be avoided and minimized. BOEM will likely require a boulder management plan and this framework document will hopefully influence their potential guidance. The idea to develop this framework document arose during a prior FWG meeting.

A key topic in the document is communication about boulder location. Currently, developers post locations on their website in different formats. The Regional Wildlife Science Collaborative (RWSC) has agreed to host a central repository for this information, and CZM will work with them to develop a standard format and form for this data.

Boulder planning and information sharing has evolved over the course of recent wind projects. Initially, boulder plans were not shared by developers. For recent projects, BOEM shared information about how agencies should be notified about boulder movement. The most recent project, Revolution Wind, has terms and conditions that require them to write a boulder plan. It states that the best place for moved boulders is adjacent to an established boulder field, and that boulders larger than 0.5 m need to be tracked and reported. There is no guidance stating that boulder plans should be included in the project review and NEPA process. A guidance document should inform and advise developers on boulders movement. The FWG is a good resource for developers to get advice on where boulders should be placed.

The following questions and feedback were shared by the working group:

- I hope we develop a set of protocols so that we standardize boulder data. These lists should include boulder locations (latitude and longitude, and TDs (loran positions)), and size approximations. Southfork's list of boulders does not include boulder size, which renders it not useful.
- Q: Are these boulder protocols specific to southern New England, or will they apply to the Gulf of Maine too? A: *This framework includes questions and a recommended procedure for boulder movement across the country. However, CZM drafted this document, and Massachusetts has no authority in other regions.*
- The Gulf of Maine is rockier than Massachusetts. A thoughtful plan for boulder movement, starting with transmission cable planning, is needed. A: *The guidance framework includes a mitigation hierarchy framework, i.e., first try to avoid boulders, then, if unable, mitigate.*
- This should be standardized across the east coast to reduce chaos and dangerous conditions for many fishing vessels traveling up and down the coast.
- Q: Under renewable energy legislation, rocks are rocks; under fisheries management legislation, rocks are sacred because they are a proxy for ecological activity. Boulder fields are protected because of their value to juvenile cod. The approach needs to go beyond just moving and identifying boulders. It needs to look at the ecological impacts of boulder movement. Different species will benefit from different configurations. Is anyone looking at the best relocation approach for specific regions (e.g., Coxes ledge, sandy bottom)?
 - NOAA: *We recognize the ecological importance and significance of different rock configurations (e.g., boulders, rocky cobble), and we do want to minimize impact to them.*
 - NMFS: *We are concerned about creating new habitat and selecting for specific ecotypes. At this point, we are focused on developing project specific monitoring plans that consider boulder movement, and sharing information in a standardized format.*
 - CZM: *The framework document does consider ecological impacts of boulder movement, though it largely raises questions rather than answers them. Determination of boulder relocation may need to be project-specific.*
- Q: What is the definition of a boulder? What size is relocated?
 - A: *There are different definitions of boulders. BOEM management plans say that boulders over 0.5 m need to be relocated. It will be important for developers to report the size of a boulder they move. We want to know what size boulder poses a problem to you.*
 - This will vary by fishery. Scallop dredges can handle boulders up to two meters, approximately. Fishing with rope and twine can handle boulders a meter across. Classifying boulder sizes by <0.5 m, <1 m, <2 m, and >2 m would be helpful.
- Q: Do developers document all boulders of a certain size or only boulders they move?

- *A: Developers have to document everything above 0.5 m. Their equipment allows them to move boulders up to 2 m. Starting with the Revolution Wind project, developers will need to report and remediate berms.*
- Everything should be documented. It will be a safety concern if multiple small rocks are placed together. Multiple small rocks are equally as damaging as one large rock.
- Will boulders be put in a single pile or distributed across the seafloor? A pile could be a problem for fishermen but is more easily mapped and avoided.
 - *A: When creating a cable route, boulders will be placed in a berm along the side of the route. When building foundations, they are placed a certain radius away from the turbine, usually in a larger ring. As it stands, the recommendation is to replace habitat with like habitat, i.e., if a boulder field is being disrupted, the boulders should be placed in a field elsewhere.*
- The [mariner notices website](#) includes boulder locations in 18 different plotting systems. Vineyard Wind works with a company to backcode data into different formats.
- Q: Why are developers moving boulders over 100 yards from turbines if they will put in scour protections? This limits the ability to fish between turbines and takes up more bottom space than necessary. This is a big problem. Moving rocks to an area that was previously fishable is the problem. A lot of the towing areas here are small and, if a boulder is placed in the middle of it, it is no longer fishable. Fishermen need to immediately know the location of relocated boulders. *BOEM: Boulders within construction zones (around turbine foundations) are being moved so construction vessels can have access to construction sites. This was already a nontrawlable (bottom trawls) habitat as the boulders were on top of the seafloor.*
- Q: Is scour protection based on geographic location of towers, depth, or other factors? What is the standard size for scour protections? Cumulative impacts of seafloor changes need to be considered. *A: Scour protection can be added to a future agenda for further discussion.*

Todd Callaghan, CZM, asked participants what data format is best for sharing boulder data so that it uploads easily to vessels' navigation systems. Responses are below.

- P-Sea WindPlot software. Contact those manufacturers to identify compatible formats.
- TimeZero

Gear Loss Claims Processes

Justin Bopp, DMF, provided an overview of gear loss claims processes, and how they differ from direct fisheries compensation funds. Justin shared a case study of Ørsted's and Vineyard Wind's gear loss claims: the processes, information required to submit claims, and appeals processes.

Lastly, he shared an update on both companies' direct compensation funds. This information is in the presentation and on the [DMF website](#).

The following questions and comments were shared by the working group:

- Q: Fishermen will be in arbitration processes where they do not get to select the arbiters. The two Ørsted staff will outvote the one fishermen (who is paid by Ørsted). The appeal should not go to Ørsted. *Ørsted: This is not intended to be an arbitration process; it is supposed to be relatively informal. Ørsted has only used this process once. In New York, where that process occurred, the third party is required to select arbiters that are former attorneys, judges, or fishermen with experience in the maritime sector.*
- Q: If a fisherman is unsuccessful in the arbitration could the conflict be brought to court? *Ørsted: I am not an attorney but I do not think this process precludes that.*
- Q: Does each offshore wind company set up its own process? If so, it would be chaotic and fishermen will not take the time to sort through different forms. *A: Yes, gear loss claims are handled by each developer. Vineyard Wind is developing a universal form that can be used for all southern New England projects, but each company will have its own third party reviewer. The justification for developers in having separate processes is that they can resolve claims more quickly than through a combined system.*
- In my experience running a gear loss system, there were so many vessels that went over gear that it was impossible to determine which vessel ultimately damaged the gear. There could be a justification to deny all claims. The money should go to other funds that actually benefit the fishing industry.
- Q: If a fisherman submits a claim are they entering any terms and conditions? *A: Yes, there are some written on the application.*
- Q: Are there published standards by which claims would be judged against? Without that, these are just ad hoc determinations. *A: Not that I am aware of.*
- Equinor: We have only had one claim in five years. Three fishing industry representatives looked at the claim. They crosswalked GIS data of survey vessel movement and gear location, and looked at the records of the fisheries liaison on the survey vessel.
- DMF: Since May 2022, all federal lobster vessels are required to deploy vessel trackers. This is already being used to resolve gear conflicts off Cape Cod. This does not address state lobster vessels. Massachusetts has adopted regulations requiring vessel trackers and given out grants to enable their adoption.

Other Massachusetts Compensatory Mitigation Funds

Justin Bopp shared high-level information about Ørsted and Vineyard Wind 1's compensatory mitigation funds including the timelines for confirming eligibility and eligibility criteria.

The following questions and comments were shared by the working group:

- Q: How will tows larger than the wind farm vicinity be counted? Developers previously said that 95% of the wind farm area will be fishable. How will that affect the payments?
A: The FWG state team will invite Ørsted and Vineyard Wind 1 to present more details.
- Q: Will there be compensation for for-hire fleets? *A: This will depend on the company. As applicable, for-hire information will be posted on the DMF website. The Massachusetts Innovation Fund from the Vineyard Wind mitigation package is applicable to both commercial and for-hire vessels.*
- Fishermen will be very confused as every company has its own rules. They will give up and not submit claims. Fishermen should design this process, not developers.
- Q: If research reveals the adverse effects of offshore wind on specific stocks, will there be additional compensation for fishers, dealers and processors of that stock? *A: At least for Vineyard Wind, the eligibility period will be the one and only time to apply for eligibility of loss. The state has heard the need for reopening mitigation should there be unexpected changes.*
- Q: Do fishermen operating in the lease area but registered outside of it (using a federal permit) get compensation? *A: Each state negotiated their own agreement.*

Regional Fund Administrator

Lisa Engler shared that nine Governors wrote a letter to President Biden in 2021 asking for BOEM to take a leadership role in regional compensatory mitigation. Now, 11 states are involved in forming a regional fund administrator, with advice from many agencies and the fishing and offshore wind industries. The intent is to establish a fund that is not only accessible to fisheries porting from or landing in these states, but all affected fisheries along the Atlantic Seaboard.

The critical challenge is that there is no means to administer fisheries compensatory mitigation monies in a regional, equitable, and efficient manner. The objective of the states is to establish a credible regional administrator to manage and distribute funds. They will act as a one-stop shop for filing and receiving claims for individual costs and losses imposed on fishing enterprises by one or more offshore wind projects regardless of the port of departure or return.

Scoping the administrator raises design questions. Money in the fund will come from developers, leasing credits, and/or congressional action. The money will be managed by a third party entity with investing experience. The administrator would focus on money payments, from designing the claims process (with input from the states and fisheries), and reviewing and verifying claims. There is a design oversight committee composed of representatives from states, the fishing industry, and developers. The states put forward a request for information to receive input on fund design. Ideally, this design work will begin this spring.

The following questions and comments were shared by the working group:

- Q: Has the design oversight committee already been selected? A: *No. Each sector will have an opportunity to select its representatives. The fishing industry could have some type of public process to apply and/or nominate representatives.*
- Q: Will the regional fund administrator be the sole person making decisions about claims? Regional groups that review claims and have local expertise would be good; no one person will have the knowledge to review all claims. A: *One component of the design process will be to determine who will review claims.*
- Q: If the regional fund happens, what will happen to the individual company funds? A: *There is no mandate that says individual project funds will go to the regional fund, but that is the goal.*

Developer updates

SouthCoast Wind – At the last FWG meeting, SouthCoast Wind presented their baseline economic assessment. Two organizations shared comments, and SouthCoast Wind met with both to discuss them in detail. The comments generally involved data, multipliers, and assumptions. SouthCoast Wind will present, with Woods Hole Oceanographic Institute (WHOI), their fisheries exposure analysis at a future FWG meeting.

Equinor – Surveys are ongoing in Empire Wind 1: Phase 1 surveys will conclude by Christmas, and phase 2 will begin in January. Spring and summer will bring cable work with the lease area and export cable 1. Lidar buoys are being removed this week at Beacon Wind, and data will be publicly available.

Ørsted – four of twelve wind turbine generators are up in South Fork, and minor cable work is ongoing. Real time information can be found in the mariners briefings. Ørsted will present information on Revolution Wind in 2024.

Avangrid – We will go through a rebidding process for New England Wind in 2024.

The following questions and comments were shared by the working group:

- Q: Will any developers keep buoys tracking wave height information beyond a five year period?
 - *Avangrid: We do not currently have plans to do this but they are considering it as buoys provide useful information to fishers and mariners.*

- *A: NERACOOS is looking to fill the gap when developer buoys are removed. Developers should contact Jake Kritzer at NERACOOS to discuss.*

Next steps and closing

Pat Field, facilitator, closed the meeting and reviewed next steps:

- Participants:
 - Share comments on the boulder framework document (including software you use, boulder size input, and other comments) with Hollie and Todd.
 - As a reminder, [this interactive BOEM map](#) shows each lease area's project name, lease number, and company.
- Facilitation team
 - Set dates and locations for FWG meetings in 2024.
- Potential future meeting agenda topics: compensatory mitigation fund presentations from developers, regional fund administrator, cod spawning, sound effects, scour protection design topics.