

MA Fisheries Working Group on Offshore Wind

Virtual Meeting – September 29, 2023

MEETING SUMMARY

Updates from Massachusetts

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

- The MA Fisheries Working Group on Offshore Wind (MA FWG) worked with other Atlantic coast states to release a Regional Fisheries Compensatory Mitigation Initiative Request for Information (“compensatory mitigation initiative”) late last year. The objective is to create a more seamless and equitable process for compensation from Maine to North Carolina. The process was developed with input from a fishery advisory group and the fishing industry. The next step is to hire a regional administrator to oversee the fund later this year or early next.
- The National Centers for Coastal Ocean Science (NCCOS) and the Bureau of Ocean Energy Management (BOEM) are using a geospatial model to identify draft wind energy areas for the Gulf of Maine. BOEM received feedback on the model this summer over a series of meetings. The draft wind energy areas will be released in October with a 30-day comment period. Meetings will be hosted to receive feedback.
- Hollie Emery, MA CZM, delivered an overview of the boulders and seafloor disturbance initiative started with the MA FWG. MA CZM and other agencies are tracking boulder movement and other disturbances from cable laying. The working group developed a guidance document of recommendations, which includes improved communication, consistent procedures, and accessible information.

The following questions were asked by the working group:

- Q: The compensatory mitigation initiative is top down. The advisory group is small and the fishing industry is not aware of the process. A: *There are six representatives on the advisory group representing different species and gear type, but it is hard to represent an entire industry.*
- Q: I am concerned that the claims process will not work. The details are incredibly important, and there are not many knowledgeable people about these processes.
- Q: When will the regional fund be in effect? A: *We had hoped it would be in effect already, but it has taken a lot of effort to convene 11 states. The RFI should be released this fall if all goes well, and an administrator hired in 2024.*
- Q: Will the regional fund be uniform across sites? A: *The fund would apply to all states and projects, though there may be site-specific aspects based on specific agreements.*
- Q: What are the administrative costs of distributing money, and who will pay for those costs? It should not come out of the fund itself, as that money should go to the deserving fisheries. A: *Details of the fund administrator and fund are being developed through this RFI process. There will be many opportunities for input from the fishing community. We agree that costs should not come out of the fisheries fund principal.*

- Q: Is BOEM or the consistency review process driving the regional fund? Is the intent to figure out the details of the fund once the administrator is on board? It is confusing that developers say the consistency review is purely optional for them, and BOEM says that BSEE can reopen mitigation if they determine necessary. A: *Federal consistency review process drives the funds, and BOEM codifies it. BOEM is currently developing guidance that will likely point to this regional process and fund administrator. There is a live question about if already established funds will be transferred to the regional fund, and the answer likely depends on how the agreements are written. For example, New Jersey agreements include language that states project funds will transition into a regional one when established. The intent is that impacted fisheries will be adequately compensated no matter which state or port they travel from.*
- Q: Has there been interest in a fund to decommission turbines at the end of their lives? Studies show that the cost of appropriately decommissioning wind farms in 25 years is equivalent to the installation cost considering inflation. A: *Fisheries compensation packages include money for construction and decommission periods for fisheries. Overall, BOEM's financial assurance regulations look for adequate decommissioning funds for each project.*
- Q: The Gulf of Maine update stressed BOEM's formal discussions on the wind energy areas. Are there any informal updates on where they are headed? A: *The formal discussions referred to summer meetings with BOEM. Those meetings included an approximate size for consideration, and information about important areas. BOEM will release the document this fall with a detailed modeling report. FWG member feedback on the model outputs and assumptions will be valuable.*
- Q: Is the boulder initiative an inventory of boulders (i.e., where they were, where they moved), or an analysis of impacts? A: *Ideally, if we knew where the boulders were moved to, we could assess the impacts and consider ways to mitigate them. The current focus is developing one inventory that tracks boulder movement information in a format legible by navigation systems.*
- Q: Is industry going to notify the fishing community when and where these boulders are being moved to? Would we have influence on the location of their movement? They are going to be a hazard to smaller boats. A: *The intent of the boulder guidance document is for the fishing community to have influence and guide future projects. Now, developers share geolocations for moved boulders on their websites post-relocation. Some developers (e.g., Ocean Wind) are moving in the direction of sharing information ahead of time. The goal is to get input on boulder relocation from at least agencies. The guidance document should recommend places to put boulders (e.g., near other boulders), and places to avoid (e.g., soft bottom).*
- Q: Give the fishing community ample time (e.g., more than two weeks) to share input on boulder movement locations. People with local knowledge should be able to give input.

Fishing Industry Updates

- Beth Casoni (Massachusetts Lobstermen's Association (MLA)): When will the Massachusetts fisheries commission meet to oversee the gear innovation fund? MLA has a project to fund, and meeting with the commission is the first step to obtaining funding.
 - A: *There are two entities: the commercial fisheries commission, which was established in legislation and is still being developed, and the Vineyard Wind*

innovation and advisory funds, which was established through their compensation fund. Vineyard Wind fund has met once and is scheduling a second. Dan and Lisa will co-lead that group.

- Angela Sanfilippo (Gloucester Fishermen's Wives Development Program (GFWDP)): Our monthly, educational webinars with the UMass Marine Lab have been successful and well attended. The next webinar will be in October. GFWDP received an appropriation to help fishermen reduce their carbon emissions. This program launched in August and has an advisory board for feedback and input. GFWDP is also working to get to know local Indigenous groups. Gloucester celebrated 400 years in August with a large event, and a lot of attendees did not know much about the history or culture.

Sunrise Wind Compensatory Mitigation Package

Jesper Christensen, Commercial Director at Ørsted, presented on the Sunrise Wind project (OCS-A 0487)'s compensatory mitigation package. There are two funds within the package: the commercial fisheries compensation fund, and coastal community fund. The commercial fisheries compensation fund ("commercial fund") will provide direct financial compensation for commercial and for-hire fisheries. It will be managed by a third-party technical assistance provider (TAP) with assistance from a fisheries liaison, which removes Ørsted from day-to-day fund management. Ørsted has used this process for other projects. The coastal community fund ("community fund") is for the fishing community and associated industries and managed by an independent council of fisheries representatives and MA CZM. The compensatory package will be reviewed periodically to assess distribution between the two funds.

The following questions were asked by the working group:

- Q: Is the purpose of the fund to compensate commercial and for-hire fisheries because we are going to lose ground to wind companies? A: *The Woods Hole Oceanographic Institution (WHOI) report for this project identifies impacts to the fishing industry from project activity during pre-construction, construction, operations, and decommissioning. There will be an impact, with the largest impact felt during construction and decommissioning. The operational years, which is the majority of the project, will see minimal impact. Displaced fisheries can submit a claim of a loss of income to the TAP who will determine eligibility and validity.*
- How will Ørsted determine compensation? Will you look at the two best years within a specific timeframe, expenses, gross or net revenue? Ideally, these formulas will be consistent across projects. A: *The TAP, not Ørsted, will calculate losses. Ideally, the same TAP would be used across Ørsted projects to ensure fairness. Ørsted takes a conservative approach from their perspective in calculating the needed compensatory funds and looks at gross revenue.*
- Q: Are the only areas that are going to be eligible for compensation the array areas? Will cable route and boulder movement areas be considered for compensation as well as the array areas? A: *Yes, the project footprint includes the array, buffer, and cable.*
- Q: Is there anything that requires developers to compensate affected fisheries? You previously said that BOEM's guidance was just guidance. A: *Under federal consistency, BOEM's guidance can likely be enforced to a greater extent. Ørsted has decided to offer*

compensation and is taking a conservative approach to ensure funds are available for the duration of the project.

- BOEM clarified that their regulations do not require direct compensation funds as part of the project, but every approved project thus far includes one. The majority lessees' proposals mirror the guidance minimum. Once the fund is in the COP, it is binding. If a COP is revised in BOEM's review period, there is an opportunity to add mitigation.
- Q: If the impact of the turbines is greater than what was calculated, will Ørsted have any appetite to revisit the fund amounts? Rhode Island put a reopener clause in some of their agreements. What we know now might not be true later. A: *This is a valid concern. We do not have an appetite for a reopener clause, but we have been ultra conservative about the fund amount and are providing more than what the WHOI report calculated.*
- Q: Can you restate what TAP stands for and what their role is? A: *A TAP is a Technical Assistance Provider, and their role is to manage the compensation fund as a third party. The TAP will receive, process, and fund claims.*
- Q: How does the TAP relate to the regional administrator we discussed this morning? Is there an expectation that each developer would have a role in determining eligibility within the regional process? This would get away from regional administrator intent. A: *MA CZM clarified that this is a question of timing. If these project-specific funds are established before the regional fund, they would ideally become part of the regional fund is established. If the TAP works well, they could apply for the regional administrator role.*
- Q: Is compensation mainly available during construction and decommissioning? Are there studies from mobile gear fleets in Europe to corroborate the assumption that operations will have minimal impact on fisheries? A: *The WHOI report shows that impacts during operational years will be much lower than construction and decommissioning years. There will be some impacts during operating years, and that is built into the assessment and approach.*
- Q: Most claims are from fishermen with historical uses in the project footprint, but fishing vessels that fish nearby are impacted too. They may see competition from displaced fishing vessels enter their areas; the cumulative effects are big.

New England Wind Compensatory Mitigation Package

Mark Roll, Federal permitting manager at Avangrid, presented on the commercial and for-hire fisheries assessment and mitigation for New England Wind (OCS-A 0534). At the June meeting, New England Wind presented on their baseline data, which revealed relatively low fishing revenue in the lease. The mitigation package is based on a set of assumptions used to assess impacts (see presentation), and conversations with MA CZM, fishing industry, and agency representatives. The assumptions are based on the best available information, are conservative, and exceed the minimum guidance from BOEM. The compensatory mitigation package accounts for impacts to shoreside businesses and for-hire industry over the life of the project. The package includes \$5.8 million for direct compensation, and \$1.5 million to address concerns around uncertainty. Both will be managed by a third-party administrator or a regional fund administrator (if the regional fund is established prior to the project).

The following questions were asked by the working group:

- Q: These funds need adequate money to be fair. As is seen in natural disasters with insurance companies, the money runs out. Will there be supplementary funds if the designated money is not enough? A: *We have conducted an assessment that uses the best available data and that is conservative. The \$5.8 million fund should be sufficient to offset anticipated impacts, and the additional \$1.5 million is in response to the uncertainty of a new industry in the US. Our conservative assumptions and additional funds are an appropriate approach.*
- The facilitator shared language from Revolution Wind's agreement with Rhode Island Coastal Resources Management Council on this topic: "Impacts Study: As indicated above, Revolution Wind has worked with the FAB's consultant to develop a reasonable and scientifically defensible study intended to evaluate the effects of the project's operation. Revolution Wind will fund this study up to an amount of \$300,000. If the study concludes that the estimated actual losses to commercial and for-hire/charter fisheries are greater than the anticipated potential losses, Revolution Wind will agree to an adjustment mechanism to pay the difference to the Trust, up to a cap of \$5,000,000. If the study concludes that estimated actual losses are less than the anticipated potential losses, the Trust will pay the difference to Revolution Wind, subject to a cap of \$2,500,000."
- Q: The assumption that 95% of the array area will be fishable is not proven and is the biggest factor in determining the amount of money in these funds. Once Vineyard is running, the wind industry should use it as a demonstration area to how much is fishable. Agencies may need to be involved, as scallopers who are only allowed 27 days at sea cannot afford to use one day to "practice" fishing.
- Q: Will any of the compensatory mitigation funds for projects awarded prior to the regional fund development be transitioned into the regional fund once established? A: *MA CZM shared that funds will likely stay with the states unless states and others think the funds should transition to the regional fund. The fund agreements will be legally binding, so we need to consider this in advance.*

Unexploded Ordnance Detection & Management

Renee Richards, geophysicist the Office of Renewable Energy Programs (OREP) at the Bureau of Ocean Energy Management (BOEM), presented on unexploded ordinances (UXO) and munitions and explosives of concern (MEC), and risk assessment guidance for encountering them on offshore wind projects. Relevant resources include the BOEM [white paper](#) on this topic, [MEC survey methodology](#), and the [proposed national guidance for industry on responding to MEC in US Federal Waters](#). If an MEC or UXO is found, lessees must coordinate with the US Coast Guard, BOEM and BSEE, and provide a notice to local mariners.

Renee Richards reviewed the BOEM risk mitigation framework, which is a stepwise process of making an MEC risk as low as reasonably practical. The first step is to conduct a hazard assessment, which is a desktop study of historical activities in the past (e.g., wartime). The second step is to conduct a risk assessment, which is assessing which mitigation approach to consider (avoid, relocate, or remove, or denote or incinerate the object). The third step is risk validation, which involves investigating the potential MEC in the water. The final step is risk

mitigation, which includes implementation and receiving a certificate from BOEM that the risk is as low as reasonably practical. Surveying and reporting UXO and MEC can occur through the COP, but risk mitigation is a seabed prep activity and can only occur once the COP is approved. Challenges to detectability of MEC small MEC and environmental conditions such as burial depth and site conditions.

BOEM works with cooperating agencies through the US Committee on the marine transportation system (CMTS), though BOEM has most of the jurisdictional authority. Jonathan Fraser, a renewable energy specialist with the Bureau of Safety & Environmental Enforcement (BSEE) and co-chair of CMTS, presented on the committee. [CMTS](#) has a mission of facilitating the development of federal guidance on MEC mitigation with offshore wind energy leases and supporting new and emerging issues. There is a very detailed process of coordination among agencies upon encountering an MEC. BSEE also participates in the desktop surveys and other assessments.

Relevant resources from BSEE include the [3Rs explosives safety education program](#) for workers, and a factsheet on the [national guidance on MEC](#).

The following questions were asked by the working group:

- Q: What is the process for communicating MEC/UXO movement? How can others find out about this? Like the boulder movement information, this information stored in a repository would be useful for fishermen. A: *US Coast Guard releases a local notice to mariners as soon as possible.*
- Q: Is mustard gas included in manmade ordinances? There have been numerous incidents with mustard gas from World War II in the clam industry that caused blisters and respiratory issues. New Jersey has a procedure and policy that could be a useful reference. Offshore wind developers should be informed about potential exposure. A: *Mustard gas is included within the MEC determination and is a concern. The containers have a material that is not easily detectable.*
- Q: Identified chemical drums should be disposed of properly, not left in harvesting grounds. People in the community are concerned about the environment and their food. Who is the responsible party for these drums? A: *Before the Clean Water Act there was permitted dumping. If drums are identified, EPA and BSEE will be heavily involved. This situation has not yet occurred.*

SouthCoast Economic Exposure Analysis

Sam Asci, fisheries manager for SouthCoast Wind, presented on the baseline fisheries economic exposure review (OCS-A 0521). The project has two export cable corridors under consideration. Hauke Kite-Powell and Michael Weir from WHOI presented the baseline assessment, which assesses the value to Massachusetts from commercial and charter fishing around the lease area and export cable route.

The major species in the lease area are Jonah Crab, Longfin Squid, and American Lobster. The major ports are Point Judith, RI, and New Bedford, MA. The top gear types are gillnet (sink), pot (lobster), and trawl (bottom). The landed value in Massachusetts from commercial fishing within

the lease area and cable corridors is \$340,000/year. Looking at upstream and downstream multipliers, the value is \$690,000/year. The landed value for for-hire charter fishing in Massachusetts is \$73,000/year, and \$119,000/year with multipliers.

SouthCoast is looking for feedback on the baseline values before finalizing them. At the next FWG meeting, SouthCoast will present on the estimated effects of construction, operation, and decommissioning for each project year.

The following questions were asked by the working group:

- Q: How does this assessment account for COVID years? A: *NOAA released a specific report on this. There was not a dramatic increase or decrease in for-hire trips.*

Other Updates

Facilitator Pat Field reminded attendees about a past request for a presentation on sound impacts. The experts that were asked to present requested additional information about what the group wants to learn, as there are [existing webinars](#) that might be a useful first resource. What type of information is this group looking for?

The following feedback was given by the working group:

- What action, and by which agencies, is being taken now to ascertain if there is a relationship between seismic activity and behavioral changes for marine mammals? Past literature, which includes other locations and frequencies, is less relevant. Marine mammals are the priority, but it could be helpful to have more information on scallops and sea turtles. The public wants more information on the relationship between whale deaths and seismic activity.

Next Steps and Closing

Lisa Engler, MA CZM, closed the meeting and reviewed next steps, below:

- Participants:
 - Share feedback on SouthCoast baseline economic studies.
 - Share what information is desired from a presentation on sound impacts.
- MA CZM:
 - Update boulders guidance document based on discussion.
 - Schedule a separate meeting for lessons learned from first year construction on Vineyard Wind 1 and South Fork Wind.
 - Contact Angela regarding her concerns about the compensatory mitigation initiative process.
 - Send update on compensatory mitigation packages when finalized.
- Potential future meeting agenda topics: regional fund, and presentation from BOEM's leasing division on financial assurance regulation and decommissioning.