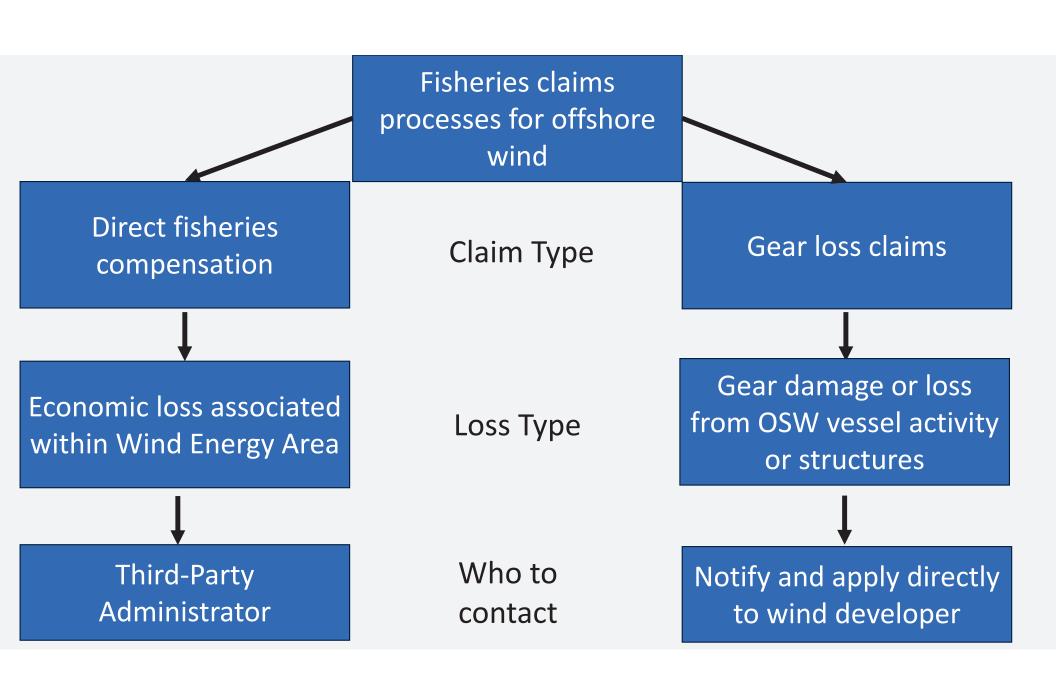
Offshore Wind Gear Loss Claims Process

MA Fisheries Working Group Meeting
December 2023



Overview of Orsted's gear loss claim process

To have a claim reviewed and processed:

- Notify Orsted within 14 days after the incident Contact Orsted America Corporate Fisheries Liaison: Rodney Avila (<u>rodav@orsted.com</u>)
- 2. Fill out the Gear Claim Application Form and submit the form with required documents to Orsted's Corporate Fisheries Liaison via email

Gear Loss Claim Instructions
Gear Loss Claim Application

3. Submit completed application within 30 days of the incident

Orsted gear loss claims review continued



Within 30 days after claim submission a decision will be made in writing



Review process will consist of three reviewers:

A Fisheries Representative from the Applicant's home port

Orsted's Corporate Fisheries Liaison

A representative of Orsted Americas



A majority is needed among the reviewers to approve the claim



If claim approved, Applicant will be notified and will have a check issued within 5 business days of the expiration of the Notice of Appeal period

Information required for gear loss claim

Vessel
Registration/USGC
documentation

Vessel home port, size, type

Gear type

Claim Amount

Statement of damage or loss

- Witness names and address
- Location and date of incident
 - Reasoning why loss or damage
- If mobile gear (provide vessel speed, direction, activities before, during, and after incident)

If receiving compensation for lost or damaged gear

- Itemized list of gear
- Proof of purchase
- Estimate of gear repair

No	ime	Address				
Ph	one number	Email				
Ve	ssel name.	Home port				
Ge	ear type	State license #				
		Federal permit #				
Ve	ssel documentation number / registration num	ober#				
Cl	aim amount					
Re	equired elements of gear loss claim form					
		A full statement about the damage and/or loss. The statement must include:				
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Information required for gear loss claim

Vessel Registration/USGC documentation

Vessel home port, size, type

Gear type

Claim Amount

Statement of damage or loss

If receiving compensation for lost or damaged gear

If claiming economic loss associated with gear loss

- Witness names and address
- Location and date of incident
 - Reasoning why loss or damage
- If mobile gear (provide vessel speed, direction, activities before, during, and after incident)
- Itemized list of gear
- Proof of purchase
 - Estimate of gear repair

- VTRs for three fishing trips prior to loss
 - VTR for trip of loss
 - If mobile gear, amount of time each trip
 - If fixed, amount of gear units from each trip
 - Date replacement gear was ordered

Orsted Appeals Process for Gear Loss

30-day window to appeal after written decision is issued

File a written appeal notice to ROSPE@orsted.com and the Orsted Corporate Fisheries Liaison

Must include an explanation why Orsted Americas findings are incorrect

Orsted will provide a 3rdparty reviewer with the
appeal

Within 30 days, the 3rd party will review the issues raised and issue a final determination

All decisions are final after 30 days after initial decision

Orsted website and forms

Scroll to the bottom of Orsted's Information for Mariners webpage to

find links labeled

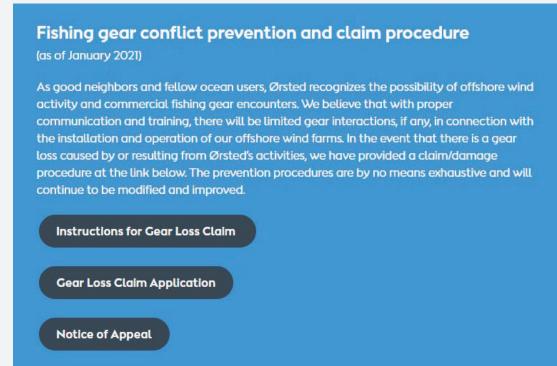
Gear Loss Claim Instructions

Gear Loss Claim Application

Notice of Appeal Application

Orsted Marine Website link

https://us.orsted.com/renewableenergy-solutions/offshorewind/mariners



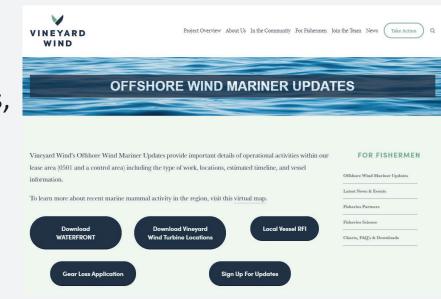
Vineyard Wind Gear Loss Claims process

- 1. Fill out the Gear Claim Application Form (<u>vineyardwind.com/fisheries-documents</u>) and submit the form with required documents to Fisheries Liaison from the lease area where the loss/damage occurred via email. Accompany application materials with photograph or video evidence if applicable and available.
- 2. Submit completed application within 30 days of the incident. Fisheries Liaisons and Fishing Representatives are available to assist with the application form

Company	Lease Areas	Contact Names	Email	Phone
Orsted	OCS-A 0486, OCS-A 0487, OCS-A 0500, OCS-A 0517	Rodney Avila	rodav@orsted.com	857-332-4479
Orsted	OCS-A 0486, OCS-A 0487, OCS-A 0500, OCS-A 0517	Clarie Hodson	claho@orsted.com	857-260-1007
Vineyard Wind Vineyard Offshore	OCS-A 0501 OCS-A 0522	Crista Bank	cbank@vineyardwind.com cbank@vineyardoffshore.com	508-525-0421
Vineyard Wind Vineyard Offshore	OCS-A 0501 OCS-A 0522	Travis Lowery	tlowery@vineyardwind.com tlowery@vineyardoffshore.com	508-728-4529
Avangrid	OCS-A 0534	Caela Howard	caela.howard@avangrid.com	860-575-3501
Avangrid	OCS-A 0534	John Harker	john.harker@avangrid.com	857-216-8611
Equinor	OCS-A 0520	Elizabeth Marchetti	emarc@equinor.com	401-954-2902
SouthCoast Wind	OCS-A 0521	Samuel Asci	samuel.asci@southcoastwind.com	857-260-4116

Vineyard Wind Gear Loss Claim review

- 1. Fisherman who sustains a gear loss/damage that he/she believes was caused by a developer's activities (surveys, cable laying, and construction vessels).
- 2. Notify the appropriate Fisheries Liaison as soon and as safe as possible via cell, text or email.



Claims Review

Step 1: After submitting claim application to Fisheries Liaison, claim will be reviewed and timeline will be established with AIS tracks of OSW vessels, and the ships daily log of communication



Step 2: A written explanation of Approval or Denial is provided to the Applicant within 30 days of receipt of claims application.



Step 3: If approved, check will be sent to Applicant. If denied, the Applicant can provide a written notice of appeal and may include a third-party review

Vineyard Wind Website Page for Claims

Gear Loss Claim Application

Gear Loss Claim Application Applicant Name	Date Submitted
Name	Date submitted
Phone	Email
Phone Business Name	Email
Business Name	Address
Vessel Name	Home Port
Vessel Name	Home port
Vessel Doc Number	Fed Fishing Permit
State Landing Permit	Gear Type
State Landing Permit	Gear Type
Date/Time of Incident Date/Time of Incident	Weather conditions (Optional) Weather conditions
Claim Amount	Location of Gear Loss (Lat/Long OR Loran)
Claim Amount	Location of loss
Description of Loss or Damage Sustained	Description of Incident Causing Damage/Loss
Description of	Description of
Loss or Damage	Incident Causing
Sustained	Damage/Loss

Description of Incident Causing Damage/Loss:	Gear Description (e,g., Markings/polyballs, highflyers, etc.)
Description of	Description of Fishing
Incident Causing	Gear (markings,
Damage/Loss	highflyers, etc.)
Offshore Wind Vessel(s) in the Area	Last Time Gear was Set and Hauled:
OSW vessels in area	Date of Last Haul/Set
Was any of the Gear Retrieved?	How Many Gillnets, Pots, Highflyers, Trawl, Doors, Ground Cables, Scissor Leggs, etc. are Lost/Damaged?
Was any gear	How many nets/pots/units
retrieved	of gear lost/damaged
Attachments to include Invoice for Replacement Gear or Gear Repair (if applications)	ible)
 Photo of chart plotter/tracks (if applicable) 	
FILL OUT THIS SECTION IF	CLAIMING LOST FISHING TIME
FILL OUT THIS SECTION IF Description of Normal Fishing Activity/Fishing Gear Configuration	otion of Gear
FILL OUT THIS SECTION IF Description of Normal Fishing Activity/Fishing Gear Configuration Descrip Fishing	otion of Gear
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VINEYARD WIND

How to download the Gear Loss Claims Form Application Go to

<u>vineyardwind.com/fisheries-</u>documents

Click on "Gear Loss Claims Form" towards end of page

If Claiming Lost Fishing Time documents required:

- Proof of landings history through VTR, Sale slip or similar documentation

Update on direct compensation

Orsted

- Joint RI/MA fisheries compensation website will be available in January 2024 from the third-party administrator for South Fork Wind
- Eligibility window is TBD
- Eligibility example application link <u>here</u>

Vineyard Wind

- 45-day application period for direct compensation loss eligibility will begin in January 2024
 - website will be up and running in January 2024
 - If deficiencies in application, 15-days to complete upon notification
- Notification of payment amount within 30 days post approval of eligibility
- Two payment options: Expedited Claims or Full Individual Payment
- Eligibility criteria for direct compensation can be found here

Developer eligibility for direct compensation

Orsted

- state fishing permit
- -MA homeport as documented in vessel registration or be a resident/business in MA
- -demonstrate history of vessel operating in the SFW project area three years prior to eligibility and having direct economic loss
 - VTR or authorization of NMFS to release VTR data to the TAP
 - If no VTRs, then MA trip-level reporting data or authorization of DMF to release trip-level reporting data

Vineyard Wind

- commercial vessel owners/operators (MA, RI, CT, NJ, and NY)
- valid 2023 commercial fishing permit with NOAA fisheries
- vessel registration showing ownership or lease agreement
- documented fishing activities within the WDA in at least three of seven years from 2016-2022
 - VTR, VMS, AIS, logbooks, chart plotter
- documented annual revenue for three years reported
 - IRS forms 1099, sales receipts, dealer slips, dealer compilation reports

Establishing a Fisheries Fund Regional Administrator

MA FWG Update

December 2023

BACKGROUND

Update Purpose

 To refresh the FWG on the origins, intent and current status of establishing a Regional Fund Administrator 11 States
(Signatories to
Governor's Letter
to President Biden,
June 4, 2021)

- 1. Maine
- 2. New Hampshire
- 3. Massachusetts
- 4. Rhode Island
- 5. Connecticut
- 6. New York
- 7. New Jersey
- 8. Delaware
- 9. Maryland
- 10. Virginia
- 11. North Caroline

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

*Have also sought advice from representatives of the fishing industry and BOEM, NOAA & ACP

States' Objective

 To establish a credible regional administrator for managing and distributing fisheries compensatory mitigation funds for offshore wind for the US eastern seaboard

Background

- MA and RI and two OSW developers (Southfork and Vineyard Wind 1) have created funds to compensate commercial and for-hire recreational fishermen for losses during construction and operations of those OSW project as well as creating additional innovation and related funds.
- Other OSW developers in conversation now too (Revolution Wind, New England Wind, Dominion off of Virginia)
- BOEM has issued Records of Decisions (RODs) at the conclusion of the NEPA Process under their OCSLA authority that include compensatory mitigation
- BOEM has issued draft guidance for how to calculate compensatory mitigation for displacement from OSW projects (not yet finalized)
- BOEM has made clear that they have no current authority to direct monies to a regional or other particular fund

Challenge

Thus, there is no current means to administer fisheries compensatory mitigation monies for offshore wind across projects in a more regional and consistent manner to be more equitable, efficient, and accessible for fishermen

Why regional?

Consistency across projects and developers

Fairness for fisheries across port of origin or port of landings

Administrator with the same processes and procedures so that fishermen from different ports fishing in or near many projects can have a "one stop shop"

Scale large enough for building expertise and efficiencies of scale

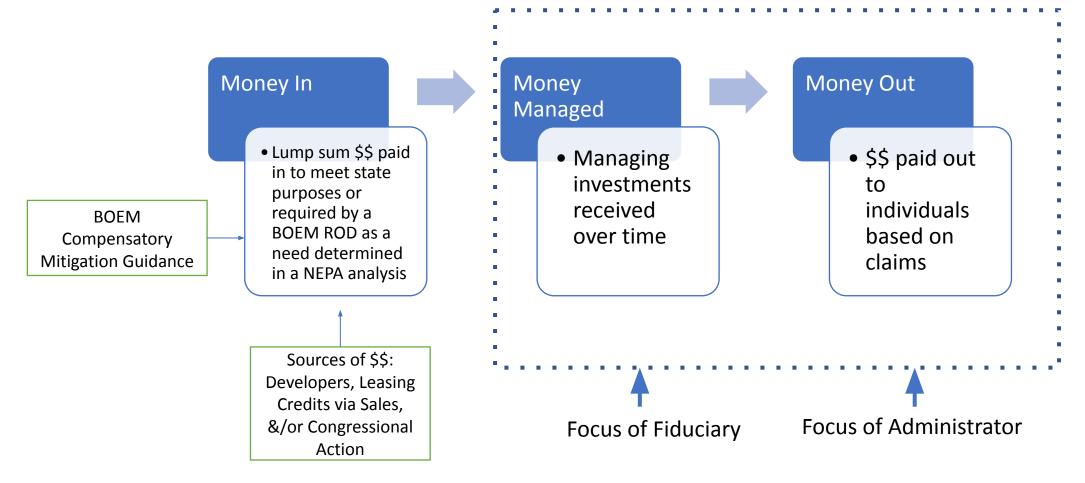
States can gain efficiencies of scale, avoid duplication and re-creation, and ensure their fishermen have access to compensation regardless of the home port state

Value Proposition

A Regional Fund and Regional Fund Administrator will provide fisheries an accessible, equitable, and consistent one-stop shop for filing and receiving claims for individual costs and losses imposed on fishing enterprises by one or more OSW projects regardless of the port of departure or return.

FUND ADMINISTRATOR SCOPING

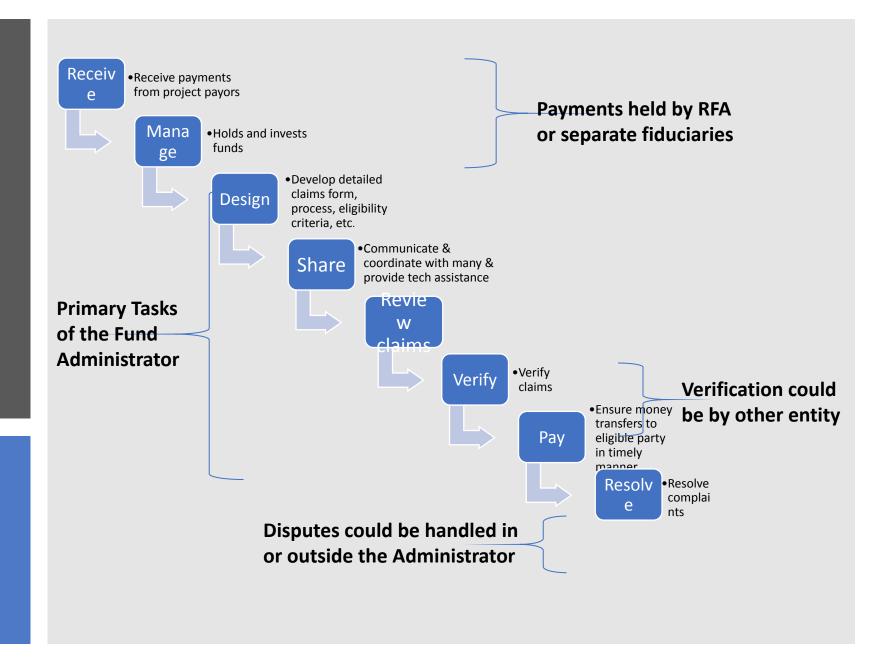
Compensatory Mitigation & Role of Fund Administration



Potential Key Qualities of an Administrator

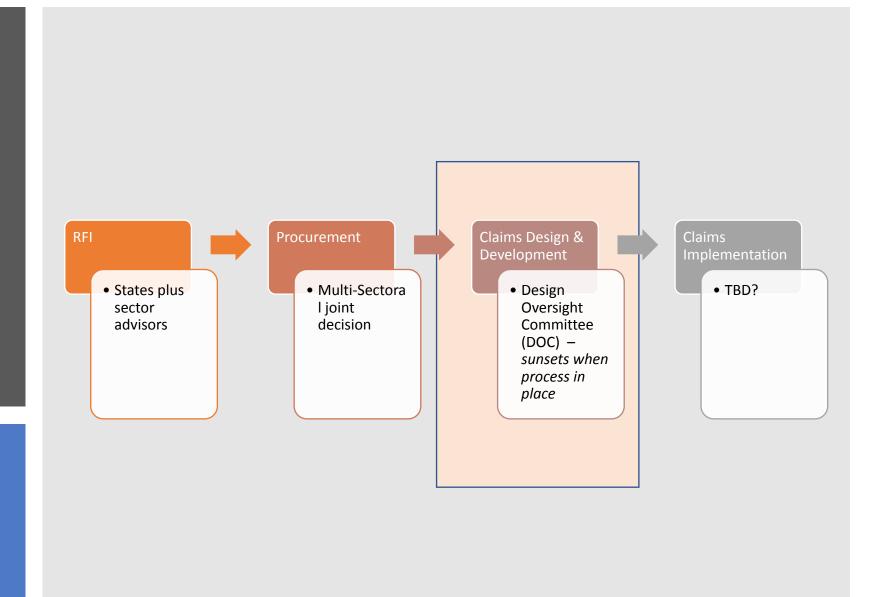
- Strong fiduciary control
- Legitimate in the eyes of stakeholders such as government agencies, the fishing industry, and OSW developers
- Free of bias and rigorous conflict of interest policies
- Demonstrated competency and efficiency in managing funds
- Sustainable for the foreseeable future
- Demonstrate timeliness and maximization of funds paid out
- Minimizes administrative costs and burdens
- Prevents waste, fraud, and abuse
- Holds extensive fishery industry experience, knowledge, and understanding
- Effective collaboration with stakeholders

Potential Fund Administrator Tasks



RFA DESIGN & DEVELOPMENT

Design & Development Phase

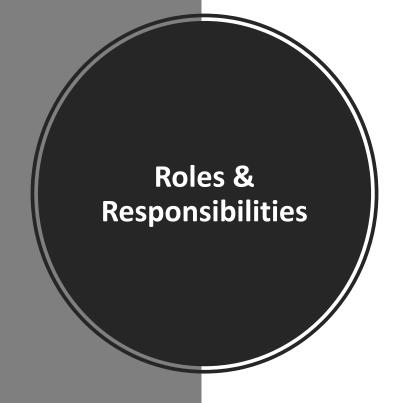


From the Bottom-up D&D Approach

Broad engagement of Fisheries (species/gear type, etc.) similar to the bottom up Fisheries Management Council process

Ad hoc workshops, interviews, & meetings as needed

DOC



Entity	Role	Possible Actors
Regional Fund Administrato r	Lead in developing the claims process; engaging with fishermen for a robust engagement process; working with and engaging with the DOC	TBD
Design Oversight Committee	Guides the overall work and engagement plan; advises the RFA; reviews the RFA performance concurrent with contracting agents	TBD
DOC Steering Committee	Prepares agendas for DOC; works with RFA to informally discuss issues and problem solve	One member from each of three sectors
DOC Members	Participate actively in all DOC meetings; stay in touch with their networks and stakeholders; help ensure the RFA is successful	Fishing; States; OSW sectors with federal agency liaisons
RFA Fiscal Agent (s)	Hold the money and contracts for funding the RFA during the design and development phase; ensuring the RFA meets its scope of work; does not direct the substance of the RFA's work but ensures the quality of its process and products	NYSERDA; SIOW
Facilitation/ Coordination Team	Facilitates the DOC; internal state coordination among 11 states; ad hoc meetings and events as needed	TBD

Key DOC Elements to Advise On

- Eligibility
- Evidence of Impacts and Burden of Proof
- Compensable Costs and Losses
- Multipliers and processor compensation
- Data Sources and verification
- Simple, verifiable, efficient claims process
- Other?

DOC Tasks & Authorities

Approves key processes proposed by RFA

Advises on key elements of the claims process

Reviews RFA performance

- Work Plan & Refined Scope
- Stakeholder Engagement Plan

- Advises on the key elements of the draft final claims process built from the robust fisheries engagement process
- DOC seeks to ensure overall a legitimate claims process and RFA that can effectively implement
- There is no formal appeals process to the RFA decisions BUT developers and states retain their individual rights regarding their agreements (states) and monies (developers)

RFA Stakeholder Engagement

Engages on Process

Engages on Substance

Brings
Forward to
DOC for
advice

Provides
Final
Comment
Period

- Detailed planning with each sector
- Discussion with broader fisheries representatives to hone
- Obtains DOC approval of Work and Engagement Plan
- Engage species/gear level groups to inform initial claims process details
- Hold joint workshops or other convenings as needed to refine and hone across species and gear types
- Engage feds/others as needed (NOAA, ASFMC, etc.)

- Brings overall elements of claims process to DOC for deliberation
- Does not seek
 DOC advice on
 each and every
 detail and
 nuance
- Considers revisions based on DOC guidance
- RFA decides draft final claims approach

- Final, formal 60-day comment on approach(es)
- Finalizes claims process

DOC Composition

- A. 3 States
 - By region (NE, Mid, Southern Mid)
 - Across CZM, fisheries, energy offices
- B. 3 Developers with One or More Leases
 - By region (NE, Mid, Southern Mid)
 - Some other criteria?
- C. 6 Fishermen (complex industries, beneficiaries, legitimacy, etc.)
 - 2 per region
 - By gear type of fishery (scallops, clams, lobster/fixed gear, groundfish/mixed trawl, HMS & other, trade association) – type of operator, diversity of industry, not just gear (processers)?
 - Some other criteria
- D. Ex-Officio Members
 - NMFS
 - ASFMC (or ACCSP)
 - BOEM
 - FMCs (?)
- E. Liaison
 - RFA Procurement State (role in RFA performance only, not an ex-officio, and if state is in this role, cannot also be a DOC member above)

DOC Selection

Each caucus selects its own DOC members

- ACP coordinates OSW members
- SIOW coordinates States
- RODA coordinates a nomination process to select commercial fishing sector members

RECREATON FOR-HIRE FISHING

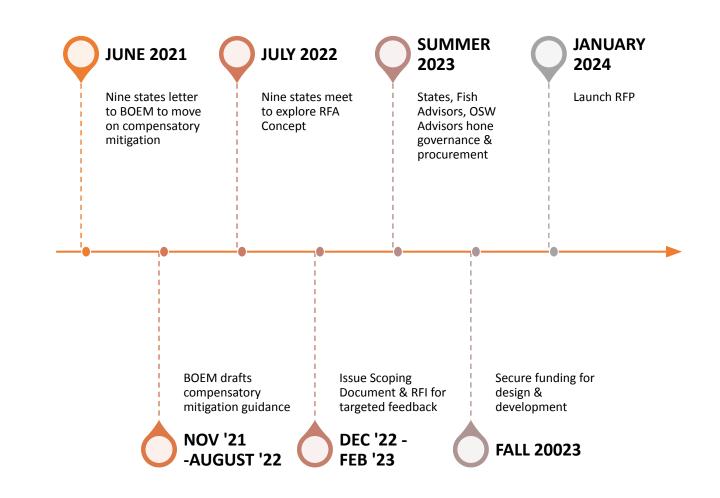
Because recreational fishing is likely 10% or less of total estimated lost revenues and costs AND any commensurate representation would cause them to be outvoted at most turns, options are:

ROBUST WORKING GROUP WITH LIAISON TO DOC OR "REC-DOC" FOR REC FISHING

RFP Proposers must Propose Approach

TIMELINE & NEXT STEPS

Timeline



Next Steps

- Issue Request for Proposals (January 2024)
- Procure RFA for Design and Development (Spring 2024)
- Undertake Regional Fund Design and Development (Summer 2024)

Questions



Questions?