



September 20, 2021

Program Manager, Bureau of Ocean Energy Management
Office of Renewable Energy Programs
45600 Woodland Road (VAM-OREP)
Sterling, Virginia 20166

Re: Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight – Draft Environmental Assessment

Dear Sir/Madam,

Please accept these comments from the New England Fishery Management Council (New England Council) and Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) on the Draft Environmental Assessment (EA) for wind lease and grant issuance and site assessment activities in the New York Bight. The draft EA considers only leasing these areas, which would allow lessees to conduct geophysical, geotechnical, and biological surveys, and, if authorized to do so pursuant to an approved Site Assessment Plan, install meteorological measurement devices to characterize the site's environmental and socioeconomic resources and conditions and to assess the wind resources in the lease areas. The draft EA does not consider the impacts of constructing wind farms as those impacts will be considered through separate Environmental Impact Statements after lessees have submitted Construction and Operations Plans.

We submitted comments during the April 2021 scoping period for this EA, and in August 2021 during the comment period for the proposed sale notice. We continue to be concerned about the issuance of additional leases in the New York Bight; however, we have not repeated most of those comments here and instead focused on the content of the draft EA. We understand that the National Environmental Policy Act regulations do not require a comment period on draft EAs and we appreciate that BOEM has provided this additional opportunity for input.

The New England Council has primary management jurisdiction over 28 marine fishery species in federal waters and is composed of members from the coastal states from Connecticut to Maine. The Mid-Atlantic Council manages more than 65 marine species¹ in federal waters and is composed of members from the coastal states of New York to North Carolina (including Pennsylvania). In addition to managing these fisheries, both Councils have enacted measures to identify and conserve essential fish habitats (EFH), protect deep sea corals, and sustainably manage forage fisheries. The Councils support policies for U.S. wind energy development and operations that will sustain the health of marine ecosystems and fisheries resources. While the Councils recognize the importance of domestic energy development to U.S. economic security, we note that the marine fisheries throughout New England and the Mid-Atlantic are profoundly important to the social and economic well-being of communities in the Northeast U.S. and provide numerous benefits to the nation, including domestic

¹ Fifteen species are managed with specific Fishery Management Plans, and over 50 forage species are managed as "ecosystem components" within the Mid-Atlantic Council's FMPs.

food security.

General Comments

As we have stated in previous comment letters, geophysical, geotechnical, and biological surveys should be coordinated across lease areas and individual wind energy projects so consistent baseline data are collected, considering the recent [recommendations](#) of the Responsible Offshore Science Alliance relative to fisheries assessment and NOAA Fisheries [habitat mapping recommendations](#) for seabed characterization. This will help ensure that existing conditions are accurately characterized, potential impacts are accurately assessed, and actions to avoid, minimize, and mitigate negative impacts are effective. The EA should be revised to acknowledge that survey activities will have different impacts if they are coordinated across all lease areas, compared to if coordination does not occur. Coordinated science could have positive impacts across a range of affected resources.

There is overlap between the resources described in the ‘benthic resources’, ‘commercial and recreational fishing’, and ‘finfish, invertebrates, and EFH’ sections. For example, bivalves are generally noted as benthic resources; however, some bivalve species support important commercial fisheries. Assuming BOEM intends to retain the resource groupings as-is, it would be helpful to acknowledge these overlaps, and clarify what aspects of impacts are evaluated in each section.

We do not think it is necessary to include Atlantic salmon as a potentially affected species in the New York Bight; however, we defer to NOAA and USFWS on this issue. The New England Council identifies EFH for salmon, and the furthest southern extent is the mouth of the Connecticut River, which is north of the study area.

Impacts to Benthic Resources (Sections 4.2.1 and 4.3.1)

A general description of benthic habitat characteristics is provided on page 29. These sand-dominated features will be fundamentally altered due to the installation of wind turbines and associated scour protection structures. The EA estimates that these changes, combined with other ongoing human activities and climate change, will result in moderate adverse impacts to benthic resources (p. 31). The magnitude and direction of this impact is probably reasonable, but scant justification is provided for this finding, and additional discussion and rationale should be added to section 4.2.1. It will be important to map benthic features at appropriate spatial scales before, during, and after construction to allow for a thorough evaluation of changes to benthic resources, and the impacts that these changes may have on fish and fisheries.

The text on pages 28-30 is very general and provides little detail on the nature or magnitude of the impacts of various activities (fishing, offshore wind development, sand mining, navigational dredging) on benthic species. There is a substantial body of literature on both fishing gear effects and a smaller but rapidly growing body of literature on the benthic effects of wind development that could be used to develop a more robust discussion of potential impacts.

The benthic resources section emphasizes the impacts of fishing and gives less emphasis to impacts associated with offshore wind development, except for in the conclusions on pages 30-31. We acknowledge that cumulative assessments are complex, as multiple activities combined with climate

change interact to affect the benthos. However, it would be useful to characterize the expected relative magnitude of different activities (fishing, dredging, offshore wind development, etc.) so their relative effects on benthic resources can be compared. The New England Council has developed a model of fishing gear effects that describes the spatial distribution and magnitude of fishing on the seafloor for multiple benthic gear types. The New England [Council webpage](#) has more information, and data products can be downloaded from the [Northeast Ocean Data Portal](#). Multiple activities combined with climate change interact to affect the benthos.

Impacts to Commercial and Recreational Fisheries (Sections 4.2.2 and 4.3.2)

We recommend that the language in section 4.2.2 be revised to refer to management at the federal and state level, rather than at the federal and regional level. The Mid-Atlantic and New England Fishery Management Councils work at the regional level in federal waters and the Atlantic States Marine Fisheries Commission works with member states to manage fisheries at the regional level in state waters. This section should also note that NOAA Fisheries has management authority for certain tunas, sharks, swordfish, and billfish.

The list of managed species included in section 4.2.2 is far from comprehensive. This language should be revised to clarify that this list includes examples of prominent fisheries in the New York Bight, rather than all managed fisheries in the region.

Page 35 of the draft EA states “Generally, the activity and value of fisheries are expected to remain fairly stable during the time frame of [sic] considered in this EA.” The final EA should more clearly indicate that this is an assumption made for the purposes of analyzing and comparing the two alternatives and that actual future fisheries activity and value may vary under both alternatives. For example, stocks under a rebuilding plan may see reduced fishing activity and revenues and changing market conditions can impact revenues. We acknowledge that there are many challenges associated with predicting future conditions with a high degree of precision. Generally, we recommend using multi-year averages to assess fisheries conditions and impacts as landings, value, and other socio-economic characteristics can vary year to year.

As we have noted in past comment letters, using only ex-vessel value to define the most affected fisheries can exclude fisheries which may have socioeconomic importance for other reasons (e.g., high volume but lower ex-vessel value, a seasonally or locally important fishery, or a lower value species that is used as bait for a higher value species).

Section 4.2.2 (p. 35) references [NOAA’s Fish and Shellfish Climate Vulnerability Assessment](#) (Hare et al. 2016) regarding the potential vulnerability of fishery species to environmental change. A forthcoming Habitat Climate Vulnerability Assessment draws similar conclusions by habitat type. Once this assessment is published, it should also be incorporated into all relevant EA and EIS documents for offshore wind energy development in this region. NOAA Headquarters habitat staff are the primary point of contact for this work.

We are pleased that the draft EA acknowledges that “noise generated from low-frequency sound (produced by some survey equipment) may result in decreased catch rates of fish while the survey is occurring. Decreased catch rates may be most notable in hook and line fisheries because

behavior changes may reduce the availability of the fish to be captured in the fishery” (p. 48). Local captains have shared observations with us suggesting that these impacts are temporary, but they do persist for a short while after the survey vessel leaves the immediate area. The EA should acknowledge that although these impacts may be temporary and negligible to minor when considered at the fishery-wide or fish population level, they can be much greater in magnitude for individual captains. For example, a single day of especially poor fishing on a for-hire vessel can have negative impacts for the captain and crew if it results in fewer repeat customers and fewer recommendations of their business to prospective customers.

We recommend improved communication between offshore wind developers and fishermen regarding the use of sub-bottom profilers and other survey equipment that may be of concern to commercial and recreational fishermen. For example, the Notices to Mariners regularly shared by developers could include more details on the types of survey equipment to be used. This could allow captains to adjust their planned fishing locations if they wish to minimize impacts from certain types of survey equipment. The draft EA concludes that the effects of surveys and survey vessels on fishing vessel navigation are likely to be negligible (p. 49). We do not necessarily disagree with this conclusion but suggest that BOEM evaluate this statement based on evidence from the many site assessment activities that have already occurred throughout the region. As stated in the draft EA, this conclusion is presented as a reasonable conjecture, rather than an evidence-based finding.

Impacts to Finfish, Invertebrates, and Essential Fish Habitat (Sections 4.2.3 and 4.3.3)

Pages 36-37 note the overfished status of bluefish and Atlantic mackerel, which are stocks managed by the Mid-Atlantic Council. The document should also highlight New England Council-managed species that occur in the New York Bight and are overfished and/or experiencing overfishing. For a current list of species, see NOAA Fisheries’ [quarterly stock status updates](#). The spatial extent of a species’ essential fish habitat designation is a reasonable way to assess whether its distribution extends into the New York Bight.

Page 37 suggests fishing and cable/pipeline installations have similar effects but at different spatial scales. We acknowledge that there is a large difference in scale, but fishing is mainly a surface activity, whereas cable installations create deep trenches, and can occur in nearshore habitats where mobile gear fishing typically does not occur. In addition, the impacts of both fishing and offshore wind development on benthic and water column EFH, versus the impacts of these activities on fish and shellfish, are distinct and it is overly simplistic to lump them together in a single discussion. For example, the acoustic and hydrodynamic effects of fishing on the water column are minimal and temporary, whereas offshore wind structures and the noises they generate may have very different effects on these habitats that persist long-term.

Page 38 states that the installation of wind turbines and offshore substation foundations “may have potential effects on the Mid-Atlantic Bight Cold Pool” but that “BOEM does not anticipate that planned offshore wind structures would negatively affect the Cold Pool, although they could affect local conditions.” Potential impacts to the Mid-Atlantic Cold Pool and resulting impacts on fishery species are of concern to the Councils and other fishery stakeholders. This is also an area of ongoing

research.² The final EA should more clearly document what is known about potential impacts to the Cold Pool and resulting potential impacts to marine species and fisheries. The final EA should acknowledge data gaps and ongoing research. If the conclusion of no negative impacts to the Cold Pool is maintained, further clarity on the supporting rationale should be provided.

The EA notes that submerged aquatic vegetation (SAV) and purpose-built artificial reefs are not present in the WEAs but could occur along the cable routes and could be impacted by bottom sampling (p. 46). SAV distributions can shift over time due to environmental conditions, but are generally known, and reef locations should be charted and fully knowable. Given that the spatial distributions of these resources are generally understood, it should be possible to minimize, if not entirely avoid, impacts to SAV, and impacts to artificial reefs should be entirely avoidable by not including their locations in planned routes. Avoidance of at least artificial reefs (including shipwrecks) should be a stipulation of the leases.

We urge caution when evaluating the potential distribution of soft and stony corals in the wind energy areas and potential cable corridors (p. 46). We agree that the shallow waters of the Mid-Atlantic Bight are generally unlikely to harbor a diversity of coral species; however, systematic directed sampling for corals in shallow waters has not taken place. As documented in the NJ report (Geo-Marine 2010), coral species can occur at artificial reef sites, and thus may occur on natural hard bottom as well. Predictive models³ indicating higher or lower likelihood of suitable habitats for corals are largely based on deep water records and incorporate fewer samples of shallow water taxa, so these results should be used with caution.

Cumulative Effects

As we stated in our April 2021 scoping comments, this EA should acknowledge the cumulative impacts of all types of pre-construction monitoring in these areas and in all other lease areas within the geographic scale relevant to each impacted resource. Specifically, the EA should acknowledge cumulative removals of fishery species, cumulative takes of protected species, and cumulative habitat impacts resulting from survey activities in lease areas across the region.

This draft EA does not consider construction of wind farms within these proposed new lease areas as a “reasonably foreseeable planned action” (p. D3-D5). We understand that this is because construction and operation of wind farms within these areas will be analyzed through future project specific EIS documents, and is not within the scope of this draft EA. The forthcoming EIS documents must consider the cumulative impacts of construction and operation of wind farms within these lease areas

² For example, two recent reports on potential impacts of offshore wind energy development on the Cold Pool which do not appear to be referenced in the draft EA are available at the following links: <https://scemfis.org/wp-content/uploads/2021/01/ColdPoolReview.pdf>; https://rucool.marine.rutgers.edu/wp-content/uploads/2020/10/PartnersWorkshop_WhitePaper_Final.pdf

³ Kinlan, B. P., Poti, M., Drohan, A. F., Packer, D. B., Dorfman, D. S., & Nizinski, M. S. (2020). Predictive modeling of suitable habitat for deep-sea corals offshore the Northeast United States. *Deep Sea Research Part I: Oceanographic Research Papers*, 158, 103229. doi:<https://doi.org/10.1016/j.dsr.2020.103229>

as well as all other lease areas within the geographic scope relevant for each impacted resource.

Other considerations

Section 4.2.4 (p. 39) notes that globally, fishing gear interactions constitute a significant threat to marine mammals, and notes which gears are the primary sources of concern in the Mid-Atlantic Bight. Fishing gear interactions estimated for the study region⁴ or the Mid-Atlantic Bight may provide more valuable information than world-wide estimates. These numbers could then be compared to estimates for regional offshore wind surveys and construction. We recommend a similar approach when considering potential impacts to sea turtles, specifically that regional take estimates would provide a more useful context for estimating offshore wind impacts.

Conclusion

We appreciate the opportunity to provide comments to ensure that issues of social and ecological importance are considered as BOEM considers leasing areas of the New York Bight for wind energy development. We look forward to working with BOEM to ensure that any wind development in our region minimizes impacts on the marine environment and can be developed in a manner that ensures coexistence with our fisheries. We would be happy to assist in communicating information to the fishing industry through our respective Council processes.

Please contact us if you have any questions.

Sincerely,



Thomas A. Nies
Executive Director, New England Fishery Management Council



Dr. Christopher M. Moore
Executive Director, Mid-Atlantic Fishery Management Council
cc: J. Beaty, M. Luisi, W. Townsend, J. Bennett, A. Lefton

⁴ The geographic boundaries for the analysis for marine mammals, sea turtles, fish/fishing, and birds include the entire NY Bight and some waters offshore Rhode Island (RI) and Massachusetts to the north and Delaware to the south given their highly mobile and, in some cases, migratory nature.