



New England
Fishery Management
Council



MID-ATLANTIC
FISHERY MANAGEMENT COUNCIL

November 20, 2023

Jessica Stromberg, Program Chief
Office of Renewable Energy
Bureau of Ocean Energy Management
45600 Woodland Road, VAM-OREP
Sterling, Virginia 20166

Dear Ms. Stromberg,

Please accept these comments from the Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) and the New England Fishery Management Council (New England Council) on the draft environmental impact statement (DEIS) for the proposed Maryland Offshore Wind Project. This project includes MarWin and Momentum Wind, both of which have been awarded offshore renewable energy credits by the state of Maryland, as well as eventual build-out of the remainder of the lease area. US Wind proposes to construct and operate up to 114 wind turbines and up to four offshore substations with one offshore export cable route. Landfall is proposed at the 3Rs beach in Delaware. From there, cables would cross through Indian River Bay.

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). The New England Council has primary management jurisdiction over 28 marine fishery species in federal waters and is composed of members from Maine to Connecticut. 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, the marine fisheries throughout the Mid-Atlantic and New England 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 food security.

The analysis in the EIS has important ramifications for terms and conditions which may be implemented through final project approval, including fisheries mitigation and compensation measures. We were unable to review the Maryland Wind DEIS in detail given other priorities and workload constraints; therefore, we offer the general comments listed below, all of which have been stated in previous comment letters on other wind projects. More detailed recommendations are available in the Councils' offshore wind energy policies, which apply to all offshore wind energy projects and are available at <https://www.mafmc.org/northeast-offshore-wind>.

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.

- Impacts to fisheries and habitats should be avoided. If avoidance is not possible, impacts should be minimized and mitigated to the fullest extent possible.
- We urge BOEM to adopt the recommendations provided by NOAA Fisheries for this project, including recommendations for data considerations, impacts analysis, and ways to avoid and minimize negative impacts to marine habitats, commercial and recreational fisheries, and fishery species.
- BOEM should not be bound to consider only projects large enough to meet existing or anticipated energy procurements. State-level targets for offshore wind energy production do not account for existing uses of the marine environment and were not directly informed by input from BOEM, NOAA Fisheries, the Councils, or other relevant agencies. Other projects are currently facing many challenges in fulfilling their existing contracts with states, including increased costs and supply chain issues. In addition, a lack of consideration of smaller projects than those desired by the developer limits BOEM's ability to reduce negative impacts, including protecting biodiversity and ocean co-use. As such, we recommend that BOEM revise the purpose and need in the EIS to clarify that smaller scales of the project than those proposed by the developer or necessary to meet existing procurements may be considered.
- All alternatives should be thoroughly analyzed and compared against each other. The analysis of the no action alternative should thoroughly and separately consider two scenarios: one where all other proposed wind projects are constructed and one where no new projects are constructed beyond those already in operation or under construction.
- The EIS should clearly identify which mitigation measures are assumed for the purpose of impacts determinations.
- The locations of transmission cables, turbine and offshore substation foundations, and other project structures should avoid sensitive habitats and habitats that are of important value to any life stages of Council-managed and other species. These habitats include, but are not limited to, sand ridges, hard bottom substrates, submerged aquatic vegetation, tidal wetlands, and deep-sea corals. NOAA Fisheries' habitat conservation recommendations, developed through the EFH consultation process, should be adopted and integrated into final project alternatives.
- Detailed maps of all relevant habitat data should be publicly available to allow for informed public comment on ways to avoid or minimize potential impacts to sensitive habitats. Figure 2.9 on page 2-29 of the DEIS is useful, but smaller scale, and ideally interactive maps would be easier to work with.
- Noises produced during surveys, construction, and operation should be minimized as they can negatively impact a variety of marine species.
- The Councils are generally supportive of time of year restrictions to reduce potential impacts to fisheries, to sensitive life stages of fishery species, and to submerged aquatic vegetation and other structured habitats throughout the project area and cable route. BOEM should work closely with NOAA Fisheries to determine the most beneficial time of year restrictions for each project.

- In general, the Councils support the use of larger turbines and substations to reduce the number of structures needed to produce a given amount of electricity if doing so reduces the total area impacted by a project. However, some foundation types with larger footprints have lesser sound impacts during construction, which is an important consideration for multiple marine species. We recommend working closely with NOAA Fisheries to determine how to best balance these tradeoffs.
- All permanent vertical project structures, including turbines, offshore substations, and meteorological towers (if used), should be arranged in a uniform grid layout to reduce navigation safety risks. The spacing and orientation of the grid should allow for continued use of the area by commercial and recreational fisheries, with minimal impacts to existing fishing practices and transit patterns.
- All project cables should be submerged to depths that are adequate “to reduce conflicts with other ocean uses, including fishing operations and fishery surveys, and to minimize effects of heat and electromagnetic field emissions” (from the BOEM Draft Fisheries Mitigation Guidance). The DEIS notes that US Wind plans to bury cables 3.3 to 6.6 feet. Although the Councils have not endorsed a specific cable burial depth, we are concerned that depths less than 6 feet may not be sufficient to reduce conflicts with other ocean uses.
- When cables cannot be buried to sufficient depth, external armoring should use natural materials, or materials that mimic natural habitats. These materials should not be obtained from existing marine habitats and must not be toxic. These recommendations also apply to scour protection placed around foundations.
- The analysis should thoroughly consider impacts to commercial and recreational fisheries that operate within the area of the proposed turbine and offshore substation array, as well as the offshore export cable route. Different fisheries (e.g., different target species, different gear types, different individuals) may be impacted by these different project components and different mitigation measures may be relevant. Therefore, the turbine/substation array and export cable route should be analyzed separately. Thorough consideration should also be given to seafood dealers, processors, distributors, bait and tackle shops, marinas, and other shoreside support services.
- The EIS should not assume that fisheries, especially commercial fisheries, will adapt to offshore wind energy development by switching gear types and/or target species. In many cases, this is not feasible given the high cost, potentially lower prices, and different permits that would be required. Such adaptation would only occur over the longer term and may require fishery management changes. It should not be assumed that fisheries management will adapt in any particular way as fisheries management must achieve a number of varied objectives and offshore wind energy development is just one consideration.
- Compensatory mitigation funds are essential for addressing the negative impacts of offshore wind energy projects on fisheries. These funds should be used for gear and vessel damage or loss as well as reductions in profits due to offshore wind energy development. We support the use of regional, rather than state-specific compensation funds for fisheries impacts.

- Terms and conditions should specify that developers are responsible for the safe disposal of unexploded ordinances (UXO) exposed due to survey and construction activities. Clear, timely, and repeated communication about UXO locations and any changes in the location or status of UXOs is essential and should not rely only on email notifications. Mariner notification may be sufficient when UXOs are detected via surveys but are not exposed, given disposal may present greater risks.

We support Alternative C as it avoids impacts to the Indian River Bay, which is EFH for many species, including summer flounder, scup, black sea bass, butterfly, bluefish, dogfish, and multiple species of skates. Estuaries such as the Indian River Bay provide important nursery habitats for many marine species and are already subject to multiple stressors. Alternative C includes two sub-alternatives, both of which avoid placement of cables in Indian River Bay. Alternative C-2 has a shorter offshore export cable route than Alternative C-1. In addition, the DEIS notes that stony corals were observed along a transect of the offshore export cable route for Alternative C-1. For these reasons, Alternative C-2 may be preferable to C-1 from a habitat perspective. Overall, it is challenging to understand the conclusions in the DEIS with respect to comparing the habitat impacts of Alternative B, the developer's proposed action, and Alternatives C1 and C2, which is framed as avoiding impacts to Indian River Bay. Discussions we would broadly characterize as habitat impacts are decomposed into biological/benthic resource impacts, which consider effects on open water habitats, coastal habitats and fauna, and wetlands and other waters of the U.S. It is difficult to read across these sections and understand the difference between Alternatives B and C. The same information should also be provided for all relevant alternatives. For example, Table 3.5.8-3 shows the intersection of the different export cable routes with various wetlands types, but a like table does not appear to be provided for Alternative B, posing challenges for a direct comparison of wetlands impacts between the two approaches. We expect that NOAA EFH staff are closely involved in developing conservation recommendations for both open water and wetland habitats used by their trust resources. We defer to their judgment as to the alternative (or modification thereof) that best minimizes impacts to fish habitats.

We also support Alternative E, which avoids construction in offshore areas of concern recommended by NOAA Fisheries by removing up to 11 turbines, micrositing, and export cable route adjustments. The complex, high relief features avoided via Alternative E will be severely impacted by development and will not function effectively as habitats or fishing grounds after turbines or cables are installed. Even using the smallest turbines evaluated as part of the project design envelope, it is possible to meet existing procurements while removing these positions.

Alternative D reduces the number of positions occupied, to minimize viewshed impacts, while allowing the project to meet existing procurements. From a fisheries perspective, we do not have specific viewshed concerns, but support this approach as a way to minimize project size and overall environmental impacts.

We appreciate the opportunity to provide comments to ensure that issues of social and ecological importance are considered in the FEIS for Maryland Wind. 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.

Please contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Moore".

Dr. Christopher M. Moore
Executive Director, Mid-Atlantic Fishery Management Council

A handwritten signature in blue ink, appearing to read "Cate O'Keefe".

Dr. Cate O'Keefe
Executive Director, New England Fishery Management Council

cc: J. Beaty, W. Townsend, M. Luisi