



COMMERCIAL FISHERIES
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Memorandum

Date: February 10, 2014

To: Rick Robins, Chair, MAFMC; Christopher Moore, Executive Director, MAFMC; Maureen Bornholdt, Renewable Energy Program Manager, BOEM; Brian Hooker, Biologist, BOEM
From: Peg Petruny-Parker, Executive Director, Commercial Fisheries Research Foundation (CFRF)
Cc: David Spencer, CFRF President; Fred Mattera, CFRF Vice-President

Re: Follow up comments – Offshore Wind Best Management Practices Workshop

The comments, suggestions, and questions listed below are being submitted as a follow up to the discussions which took place during the MAFMC “Offshore Wind Best Management Practices Workshop” (Feb. 6, 2014, Baltimore, MD). They include comments/suggestions/questions regarding the specific Best Management Practices as drafted by BOEM, as well as general comments pertaining to the engagement of the commercial fishing industry in the process of offshore wind development, and are grouped accordingly.

BOEM Draft Best Management Practices:

BMP#1: Fisheries Community Outreach and Communication Program:

- Distinction made between a fishery liaison and a fishery representative in this BMP is appropriate.
- The positions outlined in this BMP need to be established as soon as a lessee is identified so communication between the developer and fishing industry can be maintained throughout all phases (i.e. planning, design, development, implementation, operation, decommission).
- The FI should be hired directly by the wind farm developer and be accountable directly to that company. If the right person is chosen (i.e. one who is respected by the fishing community, knowledgeable about commercial fishing operations, and who has good communication skills), this position, by assisting with two way communication, will be an asset to the wind farm developer.
- The FR position should be expanded to include more than one position, especially at lease sites where there are multiple types of gear and fishing sectors engaging in fishing activity, and fishing vessels with home ports stretching all along the east coast.
- The FR position(s) should not be expected to be funded by fishing organizations – they are overwhelmed with other responsibilities, the fishing industry is facing difficult economic conditions at the moment, and offshore wind is being promoted as a national policy initiative for another type of offshore industry that the fishing industry must in turn respond to. Either BOEM or the lessee should be funding these positions. If it is the latter, then the funding should go to BOEM for this purpose. In other words, FRs should receive compensation for carrying out their responsibilities but not directly from the wind developer.

- The FRs should be accountable to some entity – there is a need for oversight – but not by the wind developer. A Board or Committee with representatives from BOEM, MAFMC (or other regional councils), and the commercial fishing industry could serve this function (i.e. decide who the FRs will be from a list of candidates submitted by industry members, oversee the FR's work and the administration of their compensation, and make decisions about removal if necessary).
- It is paramount that the FRs chosen meet the following criteria: 1) have the respect and acceptance of the fishing community being represented; 2) be very knowledgeable about the different fishing sectors and gear types in a region and have fishing experience in the region of the development; 3) have some degree of at sea safety training, and knowledge of standard navigational aids, rules, procedures and the types of things that can go wrong in relation to all the different types of fishing practices involved; 4) be knowledgeable of different fishing seasons, fishing patterns, and the key commercial species in the given area; 5) have a sense of the types of environmental/biological concerns involved in relation to fisheries impacts from offshore wind farm development (having some experience with collaborative/cooperative fisheries research would be helpful).
- Those serving in the FR positions will need support (i.e. administratively speaking) to carry out their communication responsibilities (e.g. organization of meetings, newsletters, website updates, phone line for fishermen communication, etc.). This needs to be planned for in addition to creating the actual FR positions. Those with the needed experience to qualify to fill the FR positions will likely have other jobs and responsibilities as well and will need the administrative support to help them carry out the day to day communication tasks.

BMP #2: Project Siting, Design, Navigation, and Access

- Siting for the lease area has already been decided in the southern New England area (i.e. off Rhode Island). From the fishing industry perspective, this is a high use fishing area, and may also be critical fish habitat for various stages of the life cycles of commercially important species. These facts dictate that there needs to be careful consideration of the fisheries and fishing activity in this lease area as the wind farm development progresses through the design, construction, operational, decommission phases.
- It should be explicit that the lessee is required to work with the fishing industry to obtain the information they will need to comply with this BMP. Analysis of NMFS or state data is not sufficient- the fishing community knows the limitations of this data.
- The “lessee should” language used in the various sections of this BMP is weak. It sends the message that the developer should try and accommodate fishery concerns but does not have to if it becomes too limiting or costly for the company to do so. This is sending the message to the fishing industry that their interests are secondary. Micro siting choices may have to include more than just “modest changes”.
- It is very likely that impacts such as bottom scouring will be seen well beyond the immediate footprint of the wind farm. This needs to be recognized in this section and planned for as the wind farm is being designed.
- It should also be made clear in the language in this section that impacts to the fishing community activity is not the only consideration – impacts to the fishery resources in the area are also an important consideration.
- The wind farm developers, in working with BOEM to “*design a scour protection system that reduces impacts to sediment near the tower base and reduces vortices that could develop around unprotected structure*” need to be required to consult with wind farm operators in other parts of the world with experience with existing structures to assess how to best meet this

requirement. In other words, look at in the field situations and not just build theoretical models.

- Emphasis needs to be placed on minimizing the damage from scouring, turbidity, and sedimentation – it is questionable that given the tides and eddies on the shelf area in the southern New England area that fisheries value at the base of wind towers will be enhanced.
- An example of a mitigation measure could also be orienting the towers with consideration to the prevailing tidal flow strength and direction in such a way that scouring at the base of the towers is minimized.
- The depth for minimizing the EMF from cables needs to be identified by BOEM and required of the developer in the permit.
- Unplanned for cable exposure after construction is a real concern of the fishing industry, particularly in terms of the safety issue for fishing trawlers (it can become a life and death situation if a trawler gets hung up on a cable unexpectedly in high seas). Constant monitoring of cable routes is a necessity – there can be significant shifts in bottom topography in this region in response to changing bottom currents/eddies. This needs to be considered in addition to monitoring after major storm events.
- It is unclear in the cable section if it only applies to the cable running to shore side facilities or if it also includes the cables in between wind towers.
- Shore side facility coordination might also consider the shore side capacity in the event of unforeseen accidents in the offshore wind farm area. For example, spillage of chemicals/petroleum products, collisions at sea, tower collapse in hurricanes, etc. Will there be capacity onshore to respond to these situations expediently i.e. transport vessels, cleanup crews, emergency responders? The developer should be required to demonstrate that the company has thought about and planned for these situations.

BMP #3: Alternating/Rotating Construction Schedule:

- The “should” language in this BMP is not strong enough. The way it is currently written leads to the conclusion that the costs to the developer in terms of completing scheduled construction tasks in a certain overall timeframe will prevail.
- The third bullet “*seasonal species’ distributions (i.e. spawning seasons)*” should be made clearer. For example, seasonal species distributions – this includes commercially important fisheries species in addition to marine mammals and birds, and factors such as spawning/breeding seasons, settlement areas, key feeding habitat (e.g. upwelling areas), migration routes, etc.
- Language should be inserted that requires the developer to develop construction schedules based on data and observations obtained from a variety of sources including fishing industry members and fishery managers/scientists familiar with the data for the area.
- The last paragraph is important – it will be very difficult for wind farm developers to balance the variety of fishing interests – all the more reason to have more than just one FR involved for each lease site.
- It should be made explicitly clear that the lessee is required to abide by a construction schedule that minimizes conflict among user groups and also minimizes the negative impact on commercially important fish species in the area.

BMP#4: Safety:

- This section needs to be reviewed and commented on by people who are trained in marine safety and navigation – there are life and death situations involved for the fishing industry

working in and around these wind farms. And insurance issues and costs need to be brought to light by those working in the marine insurance business.

- The specifics relayed by the fishermen team from the U.K. in terms of markings (i.e. do not rely too heavily on lighting) need to be incorporated in this section. State of the art technology to aid navigation needs to be identified and required.
- Careful consideration should be given at this point about the need to create designated buffer zones around these structures for safety.
- It should be made clear the lessee is required to do everything possible to reduce the risk of accidents happening while at the same time being required to plan for how to handle accident situations.

BMP #5: Wind Facility Fishing Access:

- “Should” and “would” language again weak in this section.
- The *“guidelines on safe navigation within and throughout the project site during construction and operations”* which the lessee is required to provide need to be developed in consultation with the fishing industry and the U.S. Coast Guard.
- Orientation and number of wind towers, as well as the spacing in between, and how cables connecting towers are laid out, will be critical to determining impacts on fishing activity, as well as the continued presence of marine resources in the area. In other words, continued fishing access will strongly depend on the details of wind farm designs.

BMP#6: Environmental Monitoring Plan:

- The term environmental monitoring is a bit confusing in this section. As written it essentially refers to the lessee’s monitoring responsibilities in regards to the physical structure of the wind farm site once it is up and operational, which is important. But the phrase environmental monitoring also brings to mind the science based monitoring of the environment where the wind farm is located – e.g. what is happening to the fishery resources and other wildlife in and around these wind farms, how is the ocean bottom changing in response to these structures, how the atmospheric environment around these wind farms is changing, etc. The lessee should have “environmental monitoring” responsibilities from both of these perspectives. Where is the science based environmental monitoring part addressed in these BMPs? Will that be addressed in the regulations?
- Environmental monitoring (in the science based sense) will be needed before construction to provide baseline information on which to: 1) adjust designs/construction schedules to minimize potential negative impacts on the fishery resources in the wind farm area; and 2) assess impacts once the wind farm is built and operational for a period of time. Where is this type of environmental monitoring required of the lessee? Has BOEM clearly identified these requirements as a condition of the lease?

BMP#7: Financial Support for Gear Modification:

- How will “wind facility safe” gear be determined? Has there been research on this? What type of gear is being referred to? Trawls? Pots? Long lines? Gill nets?
- This BMP about gear does not address the situation of what happens when acceptable gear is lost or damaged while operating in and around a wind farm, or if standard fishing gear is lost or damaged in connection with a cable line going to shore, or by a vessel servicing a wind farm.

- The lessee should be required to establish a Contingency Fund for lost or damaged gear (or fishing vessels) that is attributable to negligence on the part of the lessee, and this fund should be overseen and administered by a Review Panel that has fishing industry representation on it.

BMP#8: Port or Shore-side Improvements:

- This BMP is unclear. Is this a mitigation measure or is it needed to support the building and support of offshore wind farms?
- This subject area needs to be addressed- the fishing community will be most concerned about how traffic in and out of established fishing ports will be impacted, and how their daily fishing activities will be impacted within a port. Again, it will be a matter of finding ways to co-exist – both out at sea and in active ports.
- Most importantly, the lessee needs to be required to explain how shore side areas will be used to support their work offshore so any potential conflicts with fishing industry work can be minimized e.g. transport of equipment along a main access road to and from a port, utilization of limited marinas and ship yard facilities at certain times of the year, etc.

BMP#9: Measures to Offset Adverse Impacts:

- Legal obstacles regarding mitigation on the part of the fishing industry need to be dealt with now with the assistance of BOEM.
- The data (economic) needed to facilitate the lessee implementing such measures will be difficult for the fishing industry to compile. Careful consideration needs to be given to this aspect now. Logbook data submitted to NMFS is inadequate. Any work planned or in the process by NMFS socio-economic scientists will need to be ground truthed by the fishing industry- they know it is not complete or entirely accurate.
- The fishing industry will need to take some responsibility in developing the capacity to fairly and properly utilize any measures by the lessee to offset impacts. BOEM can assist by working with the industry to ensure that the FRs have the support they need to reach out to impacted industry members so they can engage and be represented in these decisions adequately.

Overall comment:

- There does not appear to be a BMP pertaining to research and environmental monitoring (science based) responsibilities for the lessee. Where is this guidance given and what permit conditions will be developed in this regard?

General comments pertaining to the engagement of the commercial fishing Industry:

- BMP #1 is perhaps the most important of the Best Management Practices under consideration, and one that BOEM should focus on getting right, and getting in place as quickly as possible so critical working partnerships can be developed early on in this process. This will provide: 1) the much needed capacity for the commercial fishing industry to engage in the offshore wind movement constructively and in a timely manner; 2) a mechanism for wind developers to communicate more effectively with a very diverse, wide spread, highly mobile fishing industry. If done right, it will set the stage for productive working relationships to solve problems and implement solutions that in the long term will save time and resources on everyone's part.
- BOEM has responsibilities in ensuring that the interests of both industries involved i.e. offshore wind development and commercial fishing are recognized and taken into consideration. That

points to BOEM maintaining an oversight role in making sure Best Management Practices are being implemented as envisioned, especially BMP # 1. In carrying out this responsibility, BOEM should seek assistance from the MAFMC as well as fishing industry leaders committed to working through issues.

- Given the mobility of the fishing fleet all along the east coast, and the migratory patterns of fish resources, the issues that need to be resolved between offshore wind developers and the commercial fishing industry and fisheries management governance system are not best approached on a state by state basis. A combination of a federal and regional approach is needed to help these two industries coexist along the Continental Shelf. BOEM should begin by utilizing the assistance of the regional fisheries management council system (starting with MAFMC) and the ASMFC, and recognize that each wind farm lease site may impact fishermen well beyond the nearest coastal state involved.
- Best Management Practices should be developed to give general guidance to wind farm developers on what is expected- specifics should be in the regulations and should be laid out clearly so there is no room for interpretation on what is required to be in compliance with an issued permit. The fishing industry needs to be involved in reviewing draft regulations for permits if that is where the “teeth” or details will be.
- BOEM needs to accept responsibility for ensuring that working partnerships develop between representatives of the commercial fishing industry and offshore wind developers. BOEM’s outside presence and oversight (as the lead agency in granting the lease) will be needed to make sure both industries are working together to resolve issues and co-exist (without undue favor given to either industry).
- If a true working relationship is established between wind developers and the commercial fishing industry to solve use conflicts, this same working relationship could extend to working together to accomplish information gathering and research tasks in a timely, cost effective way that both sides find credible. In other words, information and research needs could be more effectively identified and implemented if the fishing industry is involved from the start. Their knowledge of the resources in the affected areas, as well as the information pertaining to their own industry, will be very important to focusing efforts intended to establish baseline information and diminish negative impacts.
- Foremost, trust needs to be developed between the fishing industry and BOEM so working relationships between the two industries involved – offshore wind development and commercial fishing – can develop and be productive. That trust will only come when the fishing industry truly senses that BOEM is committed to protecting the fishing industry as much as it is in promoting offshore wind energy, and that the agency’s actions demonstrate that it adheres to the belief that protecting a domestic food source is an important to the nation’s future as developing alternative sources of energy offshore. There is a chance in the coming months and years for the U.S. to really demonstrate how to balance the interests involved in meeting these two national needs.