

Bureau of Ocean Energy Management (BOEM)
New York Bight Final Sale Notice
Fishing Industry Stakeholder Meeting Summary

Wednesday, January 19, from 10 to 12 PM

This summary seeks to capture key themes and points made during a meeting with fishing industry stakeholders held on January 19, 2022, which was hosted by the Bureau of Ocean Energy Management (BOEM). NY Bight Webpage and Final Sale Notice:

www.boem.gov/renewable-energy/state-activities/new-york-bight

Purpose of Meetings

- To provide information about the NY Bight Final Lease Areas, share feedback BOEM received during the NY Bight planning process, and explain the rationale for decisions that were made related to the Final Sale Notice (FSN).
- To share new lease stipulations, including ones for seeking to increase engagement with and accountability by lease holders to commercial and recreational fishermen, and to gather input from the fishing community on the implementation of this new required engagement process.

Welcome and Opening Remarks

Patrick Field, a facilitator with the Consensus Building Institute, welcomed participants and provided an overview of the meeting agenda and format.

Amanda Lefton, Director of BOEM, welcomed and thanked attendees for participating in the fifth and final fishing community meeting on the NY Bight. She noted that many fishing industry members contributed valuable input during the NY Bight planning process. She emphasized that BOEM appreciates their time and feedback. Ms. Lefton provided an overview of the contents of the NY Bight Final Sale Notice (FSN) announced by the Biden-Harris Administration on January 12, 2022. The FSN for the NY Bight includes 488,201 acres available for lease, a 72% reduction of the area included in the Call and a 22% reduction from the areas included in the Proposed Sale Notice (PSN). Ms. Lefton explained that the reduction in overall acreage and the number of lease areas from 8 to 6 was a result of stakeholder feedback, including fishermen. She also noted the final lease areas are separated by buffer areas as requested by stakeholders and represent a balance in accommodating a diverse range of ocean resources and uses.

Ms. Lefton stated that BOEM's goal for today was to be as transparent and clear about the agency's thinking and what influenced their decisions regarding the NY Bight. She explained how BOEM is working to improve their approach to stakeholder engagement through additional meetings with fishing industry stakeholders earlier in the offshore wind development process. She ended her remarks by emphasizing that BOEM wants fishing resources and industries to thrive and is working to address a diverse range of needs, interests, and stakeholders.

Overview of NY Bight WEA and FSN Development

Luke Feinberg, BOEM Project Coordinator, provided an overview of how BOEM arrived at the final lease areas and the feedback received during the development process. He acknowledged the time and resources that members of the fishing industry have spent participating in meetings with BOEM on a variety of topics including offshore wind developments and fisheries management. Mr. Feinberg showed several maps of the original NY Bight Call for Information and Nominations, the draft WEAs developed based on information from developers, and the final WEAs which were 53% smaller than the original call area and determined after BOEM studied existing and potential future uses, values of fisheries, and vessel traffic through the proposed NY Bight WEAs.

Mr. Feinberg discussed the feedback BOEM received during the public comment periods and stakeholder meetings throughout the development process related to the number, size, orientation, and location of the proposed lease areas, the auction process, lease stipulations, and engagement with native tribes, ocean users, and fishing industry stakeholders.

He provided an overview of the feedback shared by fishing industry members including feedback on conflicts between the Hudson South and Central Bight areas with existing fishing activity and habitats. Mr. Feinberg explained that the lease areas were further winnowed down based on stakeholder feedback from fishermen as well as recommendations from NOAA to avoid areas with important habitats and proposed sanctuaries. In closing, he emphasized the challenge in addressing a wide range of ocean uses and interests and highlighted several key decisions made by BOEM in the FSN:

- Reduction in Lease Areas: 22% reduction of lease area in key areas from PSN to FSN
- Lease Stipulations: Enhanced Engagement, Underserved Communities, Supply Chain
- Auction Process: One per bidder, increasing competition for state energy procurements and decreasing auction bonus bid prices

Brian Hooker, Lead Biologist at BOEM, continued the presentation and discussed the various types of data BOEM used to inform their decision making. He explained that BOEM analyzed and balanced a wide range of factors and data while considering the energy demands and requests from the states. He showed several maps with different data layers that BOEM analyzed in the process including data related to fishing activity and sea floor characteristics. He highlighted several adjustments in proposed WEAs between the PSN and FSN including reducing the overlaps with highly active fishing areas and providing a 2.5 nautical-mile setback along the scallop rotational area, a measure which minimizes impacts to important habitat features (i.e., mid-Atlantic scarp, New Jersey sportfishing areas), while also supporting transit and access to the rotational area when it is open, and as “edge fishing” when rotational area is closed.

Mr. Feinberg showed a map of the final lease areas and emphasized that feedback from stakeholders and the fishing industry were instrumental in determining the final sale notice.

Zach Jylkka, BOEM Project Coordinator, continued with a presentation about BOEM's enhanced engagement approach, a new process for improved engagement between developers and tribes, ocean users, underserved communities, and stakeholders. He noted that the new four-phase approach was developed because of feedback from the fishing community and will include new engagement and 6-month reporting requirements of developers.

1. The first phase, *Engage*, continues throughout the entire 6-month reporting cycle. Developers will be required to identify affected stakeholders, document completed and upcoming engagement activities, and develop communication plans to further guide and provide predictability for how engagement will occur with affected groups. The lessee will also be required to have a designated contact and coordinate engagement with other regional lessees to decrease the communication and consultation burden on ocean users and stakeholders.
2. The second phase, *Report*, will require lessees to draft and publish a report outlining the engagement activities, adverse effects, project changes to address adverse effects, and planning engagement activities. The reports will be published every six months.
3. During the third phase, *Feedback*, BOEM will review the reports and publish them on BOEM's website. Members of the public will have 30 days to submit public comments on the reports such as issues or questions about accuracy or suggested process improvements.
4. In the last phase, *Refine*, BOEM will transmit public comments to the lessee. The lessee will be required to address those comments through actions that minimize, mitigate, and redress adverse effects on tribes and stakeholders if they cannot be avoided. The engagement process will likely evolve based on the feedback received.

Mr. Jylkka summarized measures BOEM will take to ensure accountability and enforcement regarding the lessee's responsibilities and requirements in the engagement approach and discussed a new lease stipulation which includes project labor agreements and supply chain goals and operating fee credit to incentivize the use of materials made in the United States. He explained that BOEM is still seeking feedback on the implementation of the process including lease stipulations and preferences related to lessee engagement with stakeholders.

Summary of Questions and Comments

After the presentation, Patrick Field invited participant to ask questions and share feedback with BOEM staff. Key issues and main concerns raised in the discussion are summarized below.

NY Bight Final Lease Areas

Key concerns and questions related to the NY Bight final lease areas included the following:

- Several attendees expressed frustration with the final lease areas as well as the level of engagement with fishing industry stakeholders in development process.
 - *Amanda Lefton discussed that BOEM is working to improve their engagement with stakeholder and is conducting a new process in the Central Atlantic Renewable Energy Area to gather input before submission of the call areas to gather input and*

feedback earlier in the process. BOEM has also developed an Enhance Engagement Approach for the NY Bight to ensure that ocean users and stakeholders are adequately engaged by lease holders moving forward.

- What will happen to areas that have been excluded from the FSN?
 - *Luke Feinberg explained that circumstances would need to change for BOEM to consider offering additional WEAs or altering the boundaries of the lease areas included on the FSN. However, the two Fairways areas will remain designated as wind energy areas.*
- How did BOEM decide on the size and scale of lease areas included in the FSN?
 - *Amanda Lefton answered that the decision resulted from a multi-year and iterative approach with numerous stakeholders and state agencies which resulted in a 22% reduction between the PSN and FSN and a 72% overall reduction in the areas being offered. Brian Hooker shared that demonstration-scale projects, such as Block Island and the coastal Virginia Wind projects, have been constructed which the agency and others have been studying. The results of these studies inform future leasing and COP approval processes in other locations.*
- What sorts of action would cause a lease to be suspended or revoked? How will these lease stipulations account for archaeological discoveries that will only happen later in the leasing process?
 - *Amanda Lefton explained that the auction and sale of a lease area does not guarantee approval to construct or operate the WEA. An EIS will be conducted prior to construction and include a full evaluation of impacts to archeological and biological resources.*

NY Bight Auction and Lease Process

Several participants asked questions about the auction and lease process including:

- Is BOEM awarding leases and approving project before environmental review and prior to gathering public input?
 - *Luke Feinberg reminded participants of BOEM's WEA development process. After a lessee has been awarded a lease, they will propose what they intend to do within the lease area. After the lessee submits a construction and operations plan (COP), BOEM analyzes the environmental impacts of the specific actions and activities being proposed by the lessee.*
 - *Amanda Lefton emphasized that the NY Bight development process started several years ago and BOEM has conducted robust stakeholder and public engagement throughout the process including many public meetings and opportunities for public comments. She highlighted upcoming opportunities for additional public input after the COPS are submitted to BOEM by the lessees which will be determined at the auction on February 23rd.*

- Participants asked about the purpose of leasing each of the 6 areas to a different lessee and raised concerns about the consolidation of leases by developers.
 - *Amanda Lefton explained that, generally, BOEM is seeking to diversify and encourage competition in the leasing process to drive efficiency and price. Josh Gange, BOEM, shared that affiliated companies are not allowed to bid against each other and in instances of consolidation of companies and leases, BOEM would request the Department of Justice to be involved. Luke Feinberg added that a list of the 25 entities qualified to participate in the lease sale is currently available online on the project website.*

Construction, Operation, and Decommissioning

Questions and concerns about construction, operation, and decommissioning focused on cable burial depths, potential debris, and recycling of turbines.

- Concerns about BOEM’s burial depth target of 2 meters/6 feet for cables and requests to be involved in future discussions about burial depths and cable routing.
 - *Amanda Lefton shared that BOEM is engaged in conversation with the DOE, states, and ocean users to develop a planned approach to transmission which will be incorporated into the NY Bight. She explained that BOEM is requiring lessees to engage with ocean users around transmission cables before cables are installed and that BOEM is willing to conduct additional engagement with stakeholders about cable burial depths and routing.*
- Inquiries about requirements for lease holders to recycle wind turbines after decommissioning.
 - *Luke Feinberg explained that there is currently no requirement for recycling in BOEM’s leasing process although certain states may have additional requirements. Brian Hooker added that the decommissioning application will require BOEM approval and BOEM requires the lessee pay for decommissioning which includes removing all facilities to a depth of 15 feet below the mudline.*
- Concerns about debris from damaged turbines.
 - *Brian Hooker assured attendees that BOEM will work with the developer to mitigate unexpected environmental impacts alongside the Bureau of Safety and Environmental Enforcement (BSEE).*

Mitigation and Impacts of Offshore Wind Development

- Participants raised several questions and concerns about mitigation measures, financial compensation to fisheries, and the mitigation framework currently being developed by BOEM.
 - *Amanda Lefton explained that BOEM is working with NMFS and a technical group of state and federal employees to develop a compensatory mitigation framework. BOEM hopes to complete that framework ahead of the upcoming Environmental Impact Statements developed for the NY Bight lease areas. She also emphasized*

BOEM's commitment to advancing environmental and earth science research to ensure that science and traditional knowledge inform the development process. Ms. Lefton also ensured participants that BOEM will continue to seek to engage with fishing industry stakeholders on issues related to mitigation and compensation.

- Several attendees raised questions and shared comments about the impacts of offshore wind developments on the fishing industry and environmental justice communities.
 - *Amanda Lefton explained that the EIS process for the NY Bight lease areas would include an analysis of the cumulative impacts of the development of these areas. She noted that interest in offshore wind energy and requests from the state of New York and New Jersey, which have set very ambitious offshore wind goals, were influential in the NY Bight development process. She also discussed the importance of including Environmental Justice communities in these discussions and announced that BOEM will include provisions in the Final Lease sale to make sure EJ communities are included. She stated that BOEM wants to increase competition to positively affect energy rates in each state and encourage a domestic supply chain to ensure that underserved communities benefit from these developments.*

Enhanced Engagement Approach

While several participants were cautiously optimistic about the new lease stipulations, the following questions were raised during the discussion:

- Will the enhanced engagement requirements for new leases also apply to existing lease areas?
 - *Luke Feinberg responded that while the existing leases will not be changed, BOEM hopes that the industry will adopt the best practices that the agency is establishing in this FSN and will likely include the stipulations in future leases.*
- How will BOEM ensure accountability and how will stakeholders know their feedback will be seen and responded to?
 - *Amanda Lefton shared that BOEM's goal is for developers to engage with ocean users at the very beginning of the process, before the COP is submitted, so that concerns are reflected throughout the entire process. Zach Jylkka emphasized the iterative nature of the process, noting that there is a provision within the lease stipulation stating that within 60 days of receiving the report, BOEM can request that the lessee modify the report. Depending on the scope of the comments, BOEM hopes comments from the public would be addressed well before the following 6-month report is published.*
- What are the plans within the agency to develop better relationships between BOEM and the fishing industry?
 - *Brian Hooker laid out the approach that BOEM has taken to foster direct relationships between developers and fisheries. He noted that BOEM does not want to insert itself where it is not needed. However, if communication is not happening*

and engagement is poor, BOEM can step in if needed and appropriate. Amanda Lefton assured attendees that BOEM is seeking to enhance engagement with the commercial fishing industry and are trying to engage stakeholder folks earlier in the process than they have in the past.

- How will BOEM advise developers on how to coordinate engagement to ensure consistency?
 - *Zach Jylkka explained that the new requirement is designed to work in two directions: lessees are encouraged - and required - to coordinate to engage with ocean users when practical and appropriate. Ocean users can also submit requests to lessees to engage in a coordinated engagement meeting. Luke Feinberg added that lease holders of adjacent lease areas will be required to coordinate among their layouts and if the lease holders do not propose a similar layout, a 2 nautical mile buffer will separate those lease areas.*
- Can BOEM increase their engagement with the recreational fishing community to ensure they have a seat at the table?
 - *Amanda Lefton highlighted the importance for the recreational fishing community to be involved in these discussions. Zach Jylkka added that the new enhanced engagement lease stipulation includes a requirement that the engagement progress report identify any adversely effected parties which would include recreational fishing community members.*
- What happens if information is given to the developer and the developer does not address the issue?
 - *Luke Feinberg explained that after the lease is awarded, if something is not addressed on key documents, plans, etc., third party verification or mediation may be required. If the issue is still not addressed, it could affect the good standing of the lease.*

Closing Remarks

Patrick Field closed the discussion period, noting that a video recording and written summary of the meeting will be available on the project website (<https://www.boem.gov/renewable-energy/state-activities/new-york-bight>).

Amanda Lefton thanked participants for their presence and expressed her appreciation for their engagement. She shared that BOEM is trying to improve the communication and engagement between lessees and ocean users and will work to address the comments and questions shared about how to ensure accountability in that process. In closing, Ms. Lefton emphasized that BOEM appreciates the feedback they received and would like to hear additional feedback on the engagement approach to ensure a robust feedback process.