



Pacific Fishery Management Council

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Marc Gorelnik, Chair | Merrick J. Burden, Executive Director

January 7, 2022

Bureau of Ocean Energy Management

To Whom It May Concern:

Thank you for the opportunity to provide comments on the Bureau of Ocean Energy Management (BOEM) Offshore Wind Fisheries Mitigation guidance. The Pacific Fishery Management Council (Council) manages fishing activities in the United States West Coast Exclusive Economic Zone, from 3 – 200 nautical miles offshore. These fisheries include commercial, recreational, and Tribal fisheries for salmon, groundfish, coastal pelagic species, and highly migratory species. The Council operates in accordance with Magnuson-Stevens Fishery Conservation and Management Act (MSA) mandates and other applicable law to sustainably manage fishery resources, including conserving and protecting important fishery habitats that also provide vital ecosystem services. The Council strongly encourages BOEM to set policies to first avoid impacts to fisheries, and then minimize and mitigate impacts if avoidance is not possible. This tiered approach is extremely important to the Council, the fishing industry, and coastal communities, and should be a cornerstone of actions by BOEM, BOEM's requirements of developers, and of the developers themselves as they construct and operate offshore wind (OSW) energy facilities. This letter includes overarching comments as well as responses to the questions posed in the Request for Information.

Overarching Comments

We offer these comments in support of developing a standardized approach to avoid, minimize, mitigate, or compensate for impacts to fisheries resulting from planning, installation, and operations of OSW facilities.

- In the context of fisheries impacts, the Council considers several associated elements to fall within the definition of fisheries impacts. These include displacement, access, gear loss or required modification, and transit to and from fishing grounds; impacts to habitats that provide the spawning and nursery habitats vital to sustainable fish production; and impacts to coastal economies and associated industries such as processing plants, seafood suppliers, port facilities, and transportation.
- MSA National Standard 8¹ addresses the importance of fisheries to coastal communities: *“Conservation and management measures shall, consistent with the conservation requirements of this Act...take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities,*

¹ Magnuson-Stevens Fishery Conservation and Management Act National Standards:
<https://www.fisheries.noaa.gov/national/laws-and-policies/national-standard-guidelines>

and (B) to the extent practicable, minimize adverse economic impacts on such communities.” We encourage BOEM to require OSW energy developers to adhere to the principles embodied in MSA National Standard 8.

- The Council is developing a set of policy documents to describe our priority issues and expectations, which will include guidance to developers for analyzing fisheries impacts. We encourage collaboration between the Council and BOEM as we each develop our own guidance documents. There are many shared priorities, and a collaborative approach would benefit BOEM, the Council, and stakeholders. The degree of collaboration is at least partially dependent on the timing of the separate efforts. As mentioned below, subsequent efforts to consider guidance tailored to the West Coast should be given strong consideration. The West Coast is not as far along in its experience with OSW issues as other regions. In addition, there may be opportunities to seek outside expertise from universities, federal, state, and Tribal governments, or private sector experts to support this work.
- We view alternative energy development through a long-term lens, in the context of global climate change, shifting fisheries, and changing oceanic systems. The principle of environmental justice includes fair and equitable distribution of environmental impacts and benefits that may result from environmental and human sources. In the context of OSW (or any ocean development activities) this means safeguarding those families who depend on commercial and recreational fishing, including affiliated industries, and providing tools and opportunities to ensure community resiliency. The seafood industry provides a tax base for community infrastructure such as schools, ports, and social services. Impacts to fishing and associated industries should be mitigated, which may include compensation in terms of job training, employment opportunities, or other means to ensure that fishing-dependent communities benefit financially from OSW development.

Responses to Questions

Note: we address most but not all the questions contained in the Request for Information. For those questions not addressed, we are interested and willing to work with BOEM to share information and resources to support both BOEM and Council efforts.

General approach

Question: Should BOEM develop mitigation guidance for some or all of the four topic areas below and how should they be prioritized?

Response: Yes, BOEM should develop such guidance for all four topic areas and should add “operations” to #1 (*Project siting, design, navigation, and access*).

Question: Are there specific strategies, process steps, and engagement components for minimizing impacts and obtaining information requested in the topic areas?

Response: Over the past year or more on the West Coast, BOEM representatives have engaged effectively in BOEM and Council-hosted public meetings, including with Council Advisory Bodies and stakeholders. In addition, BOEM representatives participate in a coordination call prior to each of the five Council meetings per year, with the purpose of identifying and discussing important topical issues. These meetings have been helpful in raising topics for full Council briefings and discussion and we encourage continuing these meetings. Additional engagement steps are needed for discussion and questions/answers, to gain the input needed to first and

foremost avoid fishery impacts and second to minimize and mitigate impacts when unavoidable. There are concerns from the fishing industry and from the Council that the OSW planning process in Federal waters off California lacked adequate opportunities for stakeholder input, and this perception undermines BOEM's planning process and subsequent siting and construction by creating dissonance. However, the planning process for Federal waters off Oregon has been active, with more substantial engagement with the Council and fisheries stakeholders, and this may be a model for an offshore wind development process. Successful engagement with stakeholders is a fundamental part of mitigation and models for doing so should be a topic addressed in the national guidance.

The Council is eager to continue an effective working relationship with BOEM in order to pursue our mandates related to addressing impacts to fishing activities, habitat protection, and coastal communities.

Question: Should the topics be addressed from a national or a regional perspective and why?

Response: The topics within this Request for Information should be considered from both a national and a regional perspective. There are certainly issues and considerations that apply nationally, such as loss of access to fishing grounds, transit issues, and impacts to coastal communities. However, the U.S. West Coast presents a very different suite of fisheries characteristics and issues compared to the East and Gulf Coasts, including factors that affect OSW specifically such as bathymetry, the technology of OSW installations, proximity of ports and energy infrastructure, and other factors. In addition, OSW energy development on the U.S. East Coast is more advanced in the OSW process than on the U.S. West Coast. We suggest that BOEM develop guidance specific to the U.S. West Coast. The Council offers its collaboration in developing such region-specific guidance.

Project siting, design, navigation, and access

Question: What processes and engagement between fishermen and developers for a particular project site could help BOEM identify specific project layouts that avoid, minimize, or mitigate impacts to fishing, and to ensure that parties are satisfied with the engagement?

Response: We have found that multiple opportunities with specific stakeholders offer the best opportunity for identifying specific areas that are relatively more or less crucial to fishery sectors. BOEM has provided numerous opportunities for engagement with stakeholder groups, which are hopefully helpful for BOEM's development of best practices. However, the information that can be gained from close – sometimes individual – engagement is often the most valuable and accurate information. While some commercial and recreational fishing locations and activities are considered proprietary, the fishing community can offer important information that may help guide siting and layout of OSW projects. BOEM should require an engagement strategy that includes local opportunities for stakeholder participation and input from the beginning of the project planning and siting process.

Question: Are there project design criteria for avoiding or minimizing impacts to fishing that the guidance should include (e.g., distance between turbines, clustering or spacing of turbines, orientation of turbines, setbacks or other means to address particular regulated fishing areas, such as Essential Fish Habitat (EFH), rotational fishing areas, closed fishing areas, or other similar regulatory spatial designations)?

Response: Yes, the guidance should include a set of standard design criteria designed to first avoid then minimize impacts to fishing. In addition to those criteria listed in the question, export cable

routes and installation should be included. Cables can be routed and/or buried to avoid impacts to fishing activities and habitat. BOEM and OSW energy developers should be required to work with fisheries stakeholders and managers to identify optimal design criteria and cable routes that will minimize impacts.

Question: Are there evidence-based project criteria for avoiding or minimizing impacts to fishing from both export and inter-array electric cable layout, location, burial depth, and cable protection measures?

Response: There are examples of successful collaboration on routing and installation of telecommunications cables. In many cases, cable operators work with established fishery groups and/or local fishing industry members to identify the optimal route that will minimize impacts to both fishing activities and high value habitats such as rocky reefs and biogenic habitat. BOEM and OSW energy developers should be required to work with established entities such as cable committees, port authorities, the Council, and local stakeholders, to identify optimal cable routes and create evidence-based criteria for avoiding or minimizing fishery impacts. For habitat impacts (including EFH), BOEM and OSW developers should be required to work with habitat experts including management entities and science centers.

Question: Are there evidence-based criteria or guidance, such as scale and size of projects, number of affected vessels, distance between projects, and other factors, that would avoid or minimize impacts to navigation and fishing activities within a project area?

Response: There should be criteria and guidance developed, and guidance for the U.S. West Coast can benefit from projects already under development on the East Coast and Europe as well as input from West Coast fishery stakeholders.

Safety measures

There are numerous safety measures and specifications that should be included in national and/or regional guidance. These may include training, navigational products/equipment, communications protocols, and nautical chart conventions to maximize safety for fishing and other vessels. The guidance should require coordination with the U.S. Coast Guard, local port authorities, and stakeholders to identify optimal safety measures and specifications for each individual project.

Environmental monitoring plan

Question: What data should be collected to understand fishery performance (e.g., changes in catch, transit, and/or fishing itself) in and around offshore wind facilities? What methods should be used to analyze such data?

Response: Project developers should be required to monitor fishery performance, habitat impacts, and socioeconomic impacts to local communities. Before/after fishing and transit behavior, catch trends, standard habitat and socio-economic impact assessments all should be included. There are established methods for monitoring all these elements. BOEM should require OSW energy developers to work with the federal fisheries science centers, management agencies, research institutions, and/or private consultants to develop monitoring plans and require developers to evaluate and report results over time so that the determination of impacts is credible and rigorous.

Financial compensation

While we are not able to recommend specific guidance criteria at this time, we urge BOEM to include a requirement to work with state, tribal, and federal fisheries management experts, federal fisheries science centers, and the Council to identify compensation methodologies. These should be focused on ensuring long term stability to the fishing industry and coastal communities. Short term approaches such as one-time payments should be of lower priority than mechanisms focused on the long-term socio-economic well-being of the fishing industry and coastal communities.

BOEM should consider a regional approach to the issue of financial compensation and should consider engagement with fisheries economists and stakeholders to address the questions posted in the Request for Information. These are complex issues that warrant careful consideration. The Council supports such an initiative and may be able to provide expert review of methodologies or other products that result from such an initiative.

Summary

In summary:

- The Council considers fishery impacts to include direct impacts to fishing access, navigation, and operations, as well as impacts to fisheries habitat and the socioeconomics of fishing-dependent communities
- The Council is developing a set of policy documents in 2022, that address many of the same issues identified in BOEM's Request for Information. We are interested in collaborating and/or enlisting outside experts to assist both BOEM and the Council in the development of their separate products.
- BOEM should develop separate or tiered guidance that is specific to U.S. West Coast fisheries. This is a logical approach given the differing technologies, fisheries, and physical environment. In addition, the OSW industry is more advanced on the U.S. East Coast and in Europe. Planning and development of OSW on the U.S. West Coast would benefit from examples and lessons learned in other parts of the world where the OSW industry has had a longer presence.
- We view the planning and development of OSW in the context of ensuring long-term sustainable fishing industry and coastal communities. We encourage incorporating environmental justice standards and methodologies to avoid, minimize and mitigate impacts to fisheries and to identify approaches that provide long-term benefits and sustainability to fisheries and fishing-dependent communities.

We thank BOEM for the opportunity to provide input into this process and look forward to continued collaboration. Please contact Kerry Griffin of my staff (Kerry.griffin@noaa.gov; 503-820-2409) if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Burden', is centered on the page. The signature is fluid and cursive, with a large initial 'M' and a long horizontal stroke.

Merrick J. Burden
Executive Director

KFG:rdd

Cc: Council Members
Susan Chambers
Mike Conroy