



Pacific Fishery Management Council

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

March 24, 2023

Office of Regulations, Bureau of Ocean Energy Management, Department of the Interior
45600 Woodland Road, Mailstop: DIR BOEM
Sterling, VA 20166

Re: OMB Control Number 1010-0176, Docket Number: BOEM-2022-0019 (RIN) 1010-AE04
Pacific Fishery Management Council Comments on Proposed Renewable Energy
Modernization Rule

Attention Anna Atkinson:

The Pacific Fishery Management Council (Council) has reviewed the Bureau of Ocean Energy Management's (BOEM) proposed Renewable Energy Modernization Rule ("REMR") and offers the comments below. The proposed rule identifies eight major components. While some of those components and much of the details are beyond the Council's scope of interest and expertise, we offer comments on the specific topics below.

Renewable Energy Leasing Schedule

The REMR proposes a five-year leasing schedule identifying upcoming offshore wind (OSW) energy leases. This would include a list of locations under consideration for leasing and a schedule that BOEM would follow in holding its future renewable energy lease sales. The proposed schedule would provide increased certainty, enhanced transparency, and would improve the opportunities for members of the public and for organizations such as the Council to meaningfully engage earlier in the process of offshore wind (OSW) planning. The Council supports this element of the proposed rule.

Financial Assurances for Decommissioning Activities

BOEM currently requires full funding of decommissioning accounts, intended to cover the anticipated costs of decommissioning before a facility is installed on the outer continental shelf (OCS). The proposed rule would implement an incremental funding of decommissioning accounts during the operations period of a lease or grant to satisfy financial assurance requirements for decommissioning.

The Council is concerned this may result in situations where the account may be unable to cover decommissioning costs. For example, in January of this year, a significant storm impacted the U.S. West Coast. It is not unrealistic to assume some floating turbines may have incurred

significant damage had they been deployed at the time. Another example, and one less likely, would be if a project becomes unfeasible or if the developer declares bankruptcy before the end of the lease term. The staggered approach proposed by BOEM may result in the burden for decommissioning shifting to taxpayers. It may also set up scenarios where offshore wind turbines and substations in need of decommissioning remain in the water for longer periods of time, thereby causing safety concerns for mariners. The Council encourages BOEM to consider a requirement to fully fund decommissioning accounts close to the early stages of the project's life, rather than the proposed incremental funding scenario.

Site Assessment Plans for Certain Meteorological Buoys

Renewable energy lessees typically deploy at least one meteorological (met) buoy or tower, to conduct site assessment activities before submitting a Construction and Operations Plan (COP). Deployment of such facilities are currently required to be described in a Site Assessment Plan (SAP) approved by BOEM. The REMR proposes that met buoys be permitted through U.S. Army Corp of Engineers (USACE) nationwide permitting (NWP) process. The Ad Hoc Marine Planning Committee (MPC) supports this proposal but suggests a stronger requirement to remove the seafloor anchor when a met buoy is decommissioned, to prevent new potential fishing gear entanglement hazards on the seafloor and to restore habitat features. NWP 5 requires that such devices be removed "*to the maximum extent practicable and the site restored to pre- construction elevations.*" The MPC supports greater assurance that such anchors will be removed if at all possible, and the site restored to pre-project condition.

Multiple Factor Auctions and Bidding Credits

The REMR provides definitions for "bidding credits" and "multiple factor auction." We suggest the definition of bidding credit be modified to include a financial commitment attached to those bid credits. For example, if a bidder will get a five percent bid credit for a Lease Area Use Community Benefit Agreement (CBA), they should be required to actually expend a significant portion of the bid credit in funding those Agreements.

We support including bidding credits in multiple factor auctions, and not that the REMR identifies general examples on what may qualify as a bidding credit. While community benefit agreements, like those that were incorporated into the lease sales off California, are implicitly included in two of the general examples, we suggest specifically including Lease Area Use CBA and General CBAs in the proposed rule.

Thank you for considering these comments. Please contact Kerry Griffin (kerry.griffin@noaa.gov) of our Council staff with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Marc Gorelnik". The signature is written in a cursive, flowing style.

Marc Gorelnik
Pacific Council Chair

KFG:rdd

Cc: Pacific Council Members
Mike Conroy
Susan Chambers