



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF FISH & WILDLIFE / MARINE FISHERIES

Three Fort Wetherill Road
Jamestown, Rhode Island 02835



To: Abigail Ross Hopper, Director of the Bureau of Ocean Energy Management

From: Jason McNamee, Chief of Marine Resources

Date: August 4, 2016

Re: Proposed Sale Notice - Atlantic Wind Lease Sale 6 (ATLW-6) for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore New York, Docket ID BOEM-2016-0027

The RI Department of Environmental Management (RIDEM), Marine Fisheries Section, has reviewed federal docket number BOEM-2016-0027 and has the following comments:

- BOEM has elected not to remove any areas from the NY Wind Energy Area prior to leasing as described in Environmental Assessment section 1.6.4 (New York Area Identification): “BOEM decided not to expand the existing 1 nm (1.9 km) navigation buffer, nor remove additional areas for commercial fishing or viewshed concerns, at this stage. BOEM reserves the right to impose additional restrictions or mitigations if necessary, pending the outcome of project-specific plans and/or consultations.”
 - BOEM should reconsider this decision and remove additional areas, as industry has provided substantial evidence that the inshore section of the NY WEA is used heavily by the squid fishing industry and the offshore edge is used by the scallop industry.
 - Sections were removed from the MA/RI area of mutual interest (AMI) lease area due to information presented by the commercial fishing industry regarding the importance of Cox’s Ledge to the fishing industry.
 - Under the Potential Mitigation Measures and Restrictions on Development section of the PSN, removal of blocks from the lease area is proposed as a possibility. The PSN section on Withdrawal of Blocks clearly states that, “BOEM reserves the right to withdraw portions of the proposed lease area prior to its execution of the lease, based upon relevant information provided to the Bureau.”
 - “Relevant information” should be clearly defined. Similar information has been presented by the fishing industry in both the leasing processes for the NY WEA, and the RI/MA AMI, but BOEM has responded to these data submissions differently.
 - There should be a consistent and transparent protocol for addressing stakeholder input demonstrating existing ocean uses within a WEA.

- Stakeholders have expressed objections to the NY WEA project moving forward in the leasing process due to fears that their input has not been considered in the decision-making process.
 - Fishing industry participants have submitted confidential fishing location information and have stated multiple times on record that the estimates of fishery exposure prepared by BOEM/NOAA Fisheries are inaccurate. Nevertheless, BOEM has moved forward in the leasing of the NY WEA with no documentation of how stakeholder input was addressed, if at all.
 - When the RIDEM Director makes a decision through the Rhode Island Marine Fisheries Council process, a Director Decision Memo is prepared to outline exactly why the final decision was made and how relevant input was considered/accounted for. RIDEM recommends that BOEM create a similar process to ensure that all stakeholder concerns are addressed in making decisions and that the public is informed of why and how BOEM arrived at that choice. A decision document could be uploaded to the BOEM website; it would not need to be posted in the Federal Register.
- Fisheries are one of the largest existing ocean uses within the NY WEA. Therefore, a fisheries working group should be created for this this WEA, as well as other and future WEAs.
 - The RI/MA AMI project includes a Fishermen’s Advisory Board (FAB) and a Habitat Advisory Board through the Rhode Island Ocean Special Area Management Plan (OceanSAMP). The FAB serves to provide advice on potential adverse impacts of offshore development on commercial and recreational fishermen and fisheries activities, and on issues including, but not limited to, the evaluation and planning of project locations, arrangements and alternatives; micro-siting of individual structures; access limitations; and measures to mitigate the potential impacts of such projects.
 - The RIDEM recommends that BOEM create project specific fisheries advisory panels with open membership to ensure that all affected fisheries have an opportunity to provide input at all milestones of leasing and development.
- The United States Coast Guard (USCG) has provided input regarding the safety of possible development between shipping lanes, but BOEM has not followed USCG recommendations.
 - The USCG recommends a minimum of 2 nautical miles between shipping lanes and stationary structures, as well as a boundary between shipping lane entrances/exits and structures of at least 5 nautical miles. BOEM’s preferred alternative is to lease an area with a 1 nautical mile buffer between the shipping lanes and the area where stationary structures may be installed.
 - While the USCG does not have any legal authority through BOEM’s OCS leasing process, USCG expertise and recommendations should be abided by BOEM in order to prevent possible collisions or allisions. USCG expertise on renewable energy and installation of fixed structures stems from at-sea experience and discussions with marine managers in countries with existing wind farms. Therefore, BOEM should treat the USCG’s Marine Planning Guidelines (MPG) as requirements, rather than as suggestions.

- While the NY WEA is situated offshore of New York, the area itself is used by many stakeholders from surrounding states. For this reason, a joint Renewable Energy Intergovernmental Task Force should have been created for this project.
 - In terms of potential impacts to existing ocean uses like commercial fishing, New Jersey stakeholders are likely to be the more “exposed” than New York stakeholders. Rhode Island, Massachusetts, and Connecticut are also “exposed,” with respect to the commercial fishing industry. As a result, these states should all have representation on the NY Task Force.
 - These states all fit the definition of an affected state under the Code of Federal Regulations (30 CFR Ch. V § 585.102 and § 585.112). BOEM may invite the Governor of any affected state to join the task force, though joining the NY Task Force now is late in the OCS leasing process. Potentially impacted states should have been invited to have representation on the Task Force prior to the determination of a WEA.
 - The state task force framework is not appropriate for the New England region where ocean uses of federal waters overlap substantially among state stakeholders. Therefore, project specific or regional intergovernmental task forces should be created instead of state designated task forces.
- BOEM, as a party to the Northeast Ocean Plan, is committing to the use of data available from the Northeast Ocean Data Portal in its decision-making processes.
 - Data Portal information, including detailed Vessel Monitoring System maps of each fishery’s vessel densities at different locations, should be used by BOEM in their decision-making process, and the methods by which these data are considered should be clearly outlined and documented for the public.
 - Access to the 3,000 maps on the Data Portal is already available. While the Northeast Ocean Plan is not yet finalized, the information is available and should already be used in BOEM’s renewable energy leasing process.
 - The NY Wind Energy Area is situated partially within the Northeast planning area and partially within the Mid-Atlantic planning area. A clear plan for how information data from both planning areas will be used jointly should be outlined to address this issue and ensure that the best available data and science are used in decision-making, as the Draft Northeast Ocean Plan requires.