

New Jersey Marine Fisheries Council
Offshore Wind Committee
August 4, 2022

The Offshore Wind Committee met with advisors to review and discuss BOEM's draft Guidelines for Mitigating Impacts to Commercial and Recreational Fisheries on the Outer Continental Shelf. BOEM distributed the draft earlier this summer and opened a 60-day comment period. The Marine Resources Administration is developing comments on the guidelines, which will be compiled with comments from other DEP programs and submitted to BOEM. The timing of the public comment period provided an opportunity for the Committee and industry advisors to provide their input to staff on key issues and concerns. Staff reminded participants that the meeting does not preclude individuals or groups from submitting their own comments to BOEM.

Staff reminded committee members and advisors that the term "mitigation" as used in the draft guidance encompasses a four-tiered approach BOEM uses to address possible impacts to resources and current uses. These steps include avoidance, minimization, mitigation, and compensation. The draft guidelines propose a set of best management practices to developers for each of these key steps.

The guidance document is divided into four major sections, based on results of previous stakeholder workshops held by BOEM. The four topics are

- Project siting, design, navigation, access
- Safety
- Environmental monitoring
- Financial compensation

Guidance on a fifth topic – fisheries communication and outreach – is provided in a separate document developed in 2015.

Staff also described to the Committee other opportunities for providing comments, including a Joint States working meeting on July 12; all Committee members and advisors received an invitation to that meeting, but not all could attend. A summary of that meeting includes many comments on the draft guidance that can be used as a starting point for this committee's discussion.

Several participants commented that the BOEM document provided only recommendations to developers, rather than requirements. This could lead to inconsistency between developers and projects and does not guarantee that developers will do all they can to mitigate impacts, which could be harmful to resources and fishery participants. It was recommended that the guidance should include mandatory requirements that are enforceable. Staff commented that BOEM's

authority to require and enforce certain mitigation actions is questionable, but there are avenues that the state could pursue that could add more accountability for the developers.

Other comments received were consistent with concerns staff has identified and that were raised during the multi-state stakeholder meeting. Some of the major comments include:

- concerns regarding how impacts could be measured in the absence of final baseline data
- concerns regarding the timeliness of finalized data relative to the window for applying for a claim
- promote standardization of the application process and review process to facilitate claims and reduce uncertainty from industry
- the application process should be streamlined and have an appropriate timeline so that small scale operations (i.e., without administrative support) would be able to participate
- the proposed period during which parties would be eligible for compensation is too short, and the percentage of lost value that would be compensated is too low
- the commercial economic expansion factors cited in the draft guidance are extremely underestimated; more appropriate values are available through SCeMFIS
- recreational expansion factors are available from Southwick Associates
- include considerations for “new arrivals” who’s business is still expanding so that compensation is not limited to current revenue levels

Staff indicated they will consider these comments when preparing the MRA comments, which will be merged with comments from other DEP programs and submitted to BOEM. Committee members recognized staff from MRA and NYSERDA for their efforts to highlight the need for mitigation and compensation at the regional level.

The committee briefly discussed the likelihood of additional funding for the NJ Research and Monitoring Initiative being required in the third OSW solicitation, and the need for better outreach and notification from BOEM and the developers, such as when comment periods are open.