



New England
Fishery Management
Council



April 8, 2022

Doreen Harris, President and CEO
The New York State Energy Research and Development Authority (NYSERDA)
17 Columbia Circle
Albany, NY 12203-6399

Dear Ms. Harris,

Please accept these comments from the Mid-Atlantic Fishery Management Council and the New England Fishery Management Council (Councils) on the draft Purchase of Offshore Wind Renewable Energy Certificates Request for Proposals (ORECRFP22-1). This draft request for proposals supports NYSERDA's third offshore wind energy solicitation which aims to procure a minimum 2,000 megawatts of offshore wind energy. This solicitation provides an opportunity to establish requirements of offshore wind energy projects to minimize impacts to marine habitats and fisheries.

The Mid-Atlantic Council manages more than 65 marine species¹ in federal waters and is composed of members from the coastal states of New York to North Carolina (including Pennsylvania). The New England Council manages 28 marine fishery species in federal waters and is composed of members from Maine to Connecticut. The Councils have also enacted measures to identify and conserve essential fish habitats, protect deep sea corals, and sustainably manage forage fisheries. A member of the Mid-Atlantic Council staff participates as a non-core member of the NYSERDA Fisheries Technical Working Group (F-TWG).

The following comments build upon the Councils' Offshore Wind Energy policies. These policies contain detailed recommendations on project siting, environmental review, constructions, operations, navigation, safety, research, monitoring, compensation, and mitigation.²

The Councils support policies for U.S. wind energy development and operations that will sustain the health of marine ecosystems and fishery resources. While we recognize the importance of domestic energy development to U.S. economic security, we note that marine fisheries are profoundly important to the social and economic well-being of communities in the Northeast U.S. These fisheries provide numerous benefits to the nation, including domestic food security.

¹ Fifteen species are managed with specific Fishery Management Plans, and over 50 forage species are managed as "ecosystem components" within the Mid-Atlantic Council's FMPs.

² The full policies can be found at https://www.mafmc.org/s/MAFMC_wind_policy_Dec2021.pdf and <https://s3.amazonaws.com/nefmc.org/NEFMC-Offshore-Wind-Energy-Policy-December-2021.pdf>. Both Councils adopted the same policy language in December 2021.

Key Recommendations

We strongly support many aspects of this draft request for proposals and hope it can serve as an example for other states. Our key recommendations for modifications are described in more detail below and include the following:

- Fisheries compensation plans should be required, rather than optional.
- Developers should provide regular reports on how comments from stakeholders were considered and the impacts of those comments.
- Successful proposals should demonstrate a willingness to collaborate with developers throughout the region on research, monitoring, communication with fisheries stakeholders, turbine and substation array layouts, transmission planning, mitigation, and fisheries compensation.

Fisheries and Wildlife Monitoring and Research

The Councils support the draft requirement that Proposers must “provide financial and technical support to regional monitoring of wildlife and key commercial fish stocks through a minimum contribution of \$10,000 per MW of Offer Capacity” (ORECRFP22-1 Section 2.2.7).

We also support the use of collaborative research with fishermen to better understand the impacts of offshore wind energy development on fisheries and marine habitats. This could be included in Fisheries and Environmental Mitigation Plans.

Fisheries Mitigation and Compensation

The Councils support the fisheries mitigation requirements and additional fisheries and environmental measures outlined in the draft request for proposals. We strongly support use of the fisheries mitigation hierarchy as described in the draft (i.e., projects should first seek to avoid impacts; where avoidance is not possible, impacts should be minimized, and any remaining impacts should be mitigated and compensated for).

Fisheries compensation plans should be required, rather than optional. Developers should plan for financial compensation for impacts such as gear loss or damage and lost fishing opportunities. Developers should commit to setting aside funds and establishing a compensation process. The details of the compensation process need not be finalized at this stage, especially considering the ongoing development of draft guidance on this topic by the Bureau of Ocean Energy Management (BOEM). Developers should follow a standardized process for fishermen to submit claims and receive compensation. We do not support establishment of state-specific mitigation funds as the impacted federal waters fisheries are regional in nature.

The Councils recently provided detailed comments to BOEM regarding fisheries mitigation and compensation. Those comments are available at <https://www.mafmc.org/s/220107-NEFMC-MAFMC-to-BOEM-re-Fisheries-Mitigation.pdf>.

Stakeholder Engagement Plan

We support the proposed requirements regarding stakeholder engagement plans. We recommend also requiring developers to regularly report on comments received from stakeholders and the impacts of those comments on project decisions. While the impacts of individual comments need not be enumerated, an indication of which project changes were influenced by stakeholder input can help address the perception that stakeholder engagement is simply a “checking the box” exercise for developers.

Interconnection and Delivery

The Councils support efforts to minimize the amount of inter-array and offshore export cabling installed in the marine environment. Cable installation can damage marine habitats. In addition, cables pose risks of fishing gear entanglement or loss if not buried to a sufficient depth or if cable armoring is required. Concerns have also been raised about impacts of electromagnetic fields on the behavior of certain marine species. These various impacts can be reduced by reducing the amount of cabling that is required.

For these reasons, we support the draft requirement for HVDC cables (which can deliver more power than AC cables) and the draft requirement for “Mesh Ready” projects (i.e., projects meeting technical requirements to allow multiple substations to be linked together in the future). Both requirements have the potential to reduce the amount of cabling required for offshore wind projects and therefore can reduce impacts to marine habitats and fisheries. We hope the Mesh Ready requirement can encourage wind project developers to coordinate their transmission planning. We strongly support the use of shared cable corridors and/or use of backbone transmission lines that connect multiple projects.

Coordination Across Offshore Wind Project Developers

Finally, the Councils recommend that the final request for proposals clearly articulate that developers must be willing to coordinate with one another on research, monitoring, communication with fisheries stakeholders, turbine and substation array layouts, transmission planning, mitigation, and fisheries compensation.

Thank you for this opportunity to provide comments. Please contact us if you have any questions.

Sincerely,



Dr. Christopher M. Moore
Executive Director, Mid-Atlantic Fishery Management Council



Thomas A. Nies
Executive Director, New England Fishery Management Council

cc: M. Luisi, W. Townsend, J. Beaty