

Fisheries Working Group

DRAFT Initial Recommendations – January 20, 2022

Note: This list is not meant to be exhaustive on this topic, rather building a comprehensive set of recommendations with the working group over time.

Recommendations Pertinent to Pre-Construction Monitoring and Communications Relevant to ALL Offshore Wind Development Off the Coast of Maine

Recommendation #1: The State will work with BOEM and other federal agencies to strongly encourage or require offshore wind developers to develop and implement clear communications plans and notification procedures.

- a. *Communications* – Outline clear protocols for communication by offshore wind developers with the fishing industry that include the following elements including but not limited to BOEM guidance on these matters:
 - 1) OSW developers shall establish Fishing Liaison Officers (FLOs) and Fishing Industry Representatives (FIRs) prior to beginning survey, G&G, or other activity on the ocean. The fishing industry should have a meaningful role in selecting the FLO and FIR to ensure they represent and can be legitimate intermediaries with the Maine fishing industry.
 - 2) OSW developers shall establish a clear communications plan for outreach to fishermen during the life of the project and such plan shall be reviewed by BOEM in consultation with the appropriate states and fishermen advisors. The plan should be updated periodically through the life of the project, including adjustments made to account for lessons learned. Such plans should have clear metrics that measure understanding, engagement, and joint problem solving and not merely information sharing, and quantities of outreach conducted (i.e., # of meetings, # of fact sheets, etc.).
- b. *Notification* - Establish pre-survey notification requirements for offshore wind developers with the following criteria:
 - 1) Fishermen shall be given adequate and effective notice (minimum 45 to 90 days, based on season, distance from shore, and nature of fishing activity in the area) of any survey work conducted by developers or their contractors (geophysical, geotechnical, biological, oceanographic, or other) for general awareness and to move fishing gear.
 - 2) Aquaculturists shall be given adequate and effective notice (minimum 45 to 90 days) of any survey work conducted by developers or their contractors (geophysical, geotechnical, biological, oceanographic, or other) for general awareness.

- 3) Developer survey and vessel activities shall be shared in multiple formats on a real-time basis through such tools as a mariners' notice, web-based application, texts, and other means.
 - 4) The survey route provided should include not only track lines but also anticipated buffers for vessel operations and maneuvering outside of survey route, as well as an area for vessel anchoring, jogging or other holding patterns.
- c. *Accountability* -- To ensure guidelines are adhered to and issues addressed, develop a verifiable grievance or complaints mechanism that includes a timeline for and documentation of complaints and response taken; regular public reporting of this information; and alternative dispute resolution mechanisms.

Recommendation #2: The State will work with BOEM and other federal agencies to strongly encourage or require offshore wind developers follow procedures that encourage full engagement with the fishing industry from ME, NH and MA during survey operations, specifically:

- a. Survey vessel captains shall engage with local fishermen prior to activities to understand local dynamics, conditions, and practices to avoid or minimize conflict.
- b. OSW developers should always have a contact available when an OSW developer survey vessel is operating who may be contacted via radio or cell phone, which should include a land-based contact as well given challenges of communication at sea at times.
- c. A fisherman with extensive knowledge of the area being surveyed should be onboard each survey vessel and compensated appropriately.
- d. Survey vessels and developers should be held accountable for deviating from published survey routes, buffer zones and/or other areas identified for vessel operations.
- e. OSW developers should have a gear loss compensation program in place prior to initiation of surveys.
- f. Survey vessels should run their AIS at all times, regardless of distance from shore.

Recommendation #3: The State will advocate for geophysical and geotechnical data gathered by OSW developers to be made available in accessible and usable formats to the public on a regular and timely basis (e.g. concurrent with submission of the COP or in advance of the public comment period on the EIS) and that such data should be incorporated into all charting software at the developers' expense.

Recommendation #4: The State will work with BOEM and other New England states to pursue establishment of the following monitoring requirements for offshore wind lease holders:

- a. Baseline biological (marine resource and marine mammal presence) and physical oceanographic monitoring (currents, temperatures, sediment) in proposed areas for offshore wind development, at the developer's expense, should be conducted quarterly for a minimum of:
 - 1) three years prior to construction;
 - 2) throughout construction; and
 - 3) five consecutive years post-construction, then at two-year intervals until decommissioning.
- b. Appropriate surveys to monitor marine resources and benthic habitat should also be done along proposed export cable corridors.
- c. Survey and monitoring plans shall be independently reviewed by a panel of independent experts not affiliated with or funded by the developer.
- d. Trawl surveys or other survey work conducted using fishing gear should utilize a commercial vessel platform operated by industry members with significant familiarity and experience operating within the survey area.
- e. Trawl survey work should be conducted using the Virginia Institute of Marine Science (VIMS) Northeast Area Monitoring and Assessment Program (NEAMAP) protocols so it can be incorporated into a broader data set for comparative purposes.
- f. To account for post construction concerns on constraints to trawl survey methods, also include a multi-mesh gillnet survey, ventless trap survey, and other methods as needed to ensure a comprehensive approach. In order to calibrate these two surveys, they should be run concurrently with the pre-construction baseline monitoring trawl survey (inside & outside the proposed WEA). Post construction monitoring would then be trawl outside and fixed gear inside.
- g. To account for pelagic species, conduct transect acoustic surveys across the area. This will help inform changes in aggregations/distributions.
- h. Other survey methods should be considered and implemented such as gill net, tagging, acoustics, aerial surveys, thermal imaging, and other methods, especially accounting for survey methods that are implementable within deep water arrays once constructed.
- i. Survey work should be done in accordance with the Responsible Offshore Science Alliance's (ROSA) Offshore Wind Project Monitoring Framework and Guidelines (<https://www.rosascience.org/resources>).
- j. Data collected and its synthesis through all survey work should be made available to fishing industry and the public in an open-source format that is readily accessed.

- k. At the developer's expense, an independent third party should analyze the survey data and present the results of those data to the appropriate fishery management body and NOAA Fisheries.
- l. Ensure that monitoring programs are being adhered to. If it is determined that a project may be having negative impacts on the fish stocks, ecosystem, or environment, then further study should be required and remedial avoidance, minimization or mitigation measures taken. If subsequent research shows continued negative impact, then further remedial action should be undertaken at the developer's expense.

Recommendation #5: The State will provide and actively seek out other funds to sustain necessary research and monitoring during the OSW development and implementation process.

- a. The State of Maine should continue to prioritize provision of General Fund support for at least the current amount of \$2 million for monitoring and research in the Gulf of Maine in anticipation of offshore wind development for the foreseeable future.
- b. The State should pursue additional funding, both independently and in partnership with states whose fishing vessels use the Gulf of Maine to increase the available pool of funding for monitoring and research.
- c. The State should aggressively pursue funding from federal agencies such as BOEM and NOAA to ensure that the designation of wind energy areas and the subsequent EIS processes have sufficient data to make sound siting decisions that avoid or minimize impacts to commercial fishing.

Recommendations pertinent to the BOEM Siting of Wind Energy and Lease Areas

Recommendation #6: In the near term and ongoing, the State should engage with fishermen, scientists and other stakeholders with expertise in fisheries, wildlife and the environment to compile and map the areas of known concentration of priority species and habitat and fishing activity in order to appropriately cite wind energy lease areas in the Gulf of Maine.

Areas of high use by the fishing industry should be identified through the following process:

- a. First, using VMS and AIS data from the most current ten-year period available, identify all areas where commercial fishing has or is occurring.
- b. Second, identify additional fishing areas by reviewing VTR and or available data sources, for those fisheries where VMS or AIS data is insufficient or lacking. Areas of historic fishing in the last twenty (20) years should be included, such as the cold-water shrimp fishery
- c. Third, where such data in #2 is not available, utilize surveys with tested methodologies (such as that done for the Research Array), or other innovative

methods to identify current, recent, and historic areas of fishing. Any areas where there is medium to high fishing effort by one or more fisheries, or areas that would have a significant and unique impact on a particular port or region should be avoided for leasing to the greatest extent possible.

- d. Recognizing fisheries are highly dynamic and may be affected by other influences, general stock assessments and surveys of potential exploitable resources should be taken into account even if those stocks are not currently being fished.
- e. From this data, identify areas of high, medium, and low suitability from a fishing perspective for OSW development.
- f. Identify habitats known to have higher levels of productivity including ledges, rotational areas, essential fish habitat, closed areas, spawning grounds, and other areas.

Recommendation #7: As wind energy areas are being identified, Maine should request that the U.S. Coast Guard conduct a port access study to determine necessary formal and informal transit to fishing grounds and how such potential wind energy areas may adversely affect transit. If such impediments are identified, the State should work closely with BOEM to ensure wind energy areas are appropriately based and if needed, “no build” informal transit lanes are identified within the final wind energy areas.

Recommendation #8: As wind energy areas are identified, Maine should request a port impact assessment by the appropriate state or federal agency(ies) to determine if the vessels fishing in those proposed areas would be concentrated in certain ports and any implications for the port’s local economy and shoreside businesses. This assessment may require collection of new information and/or use of local ecological knowledge to supplement available data. Cost of completing the assessment should be at the developer’s expense.

Recommendation #9: The Fisheries Working Group strongly encourages the State to advocate for BOEM and the Gulf of Maine Interagency Task Force to prohibit the construction of offshore wind turbines within (XX) nautical miles or less from the Maine coast [to be defined] to avoid and minimize OSW development and fisheries conflict. [Note: This approach is something the working group is considering, but is still evaluating available data for rationale and appropriate distance determination. We do not have a proposed distance at this time.]

Recommendation #10: The State will encourage and assist BOEM in providing active and direct engagement with Maine’s fishing industry in the development of wind energy areas through workshops, meetings, dockside conversations, and other engagement, working closely with Maine DMR and fishing industry and community organizations to do so in a robust and meaningful way.

Recommendation #11: The Fisheries Working Group recommends that the State assess existing State statutory and regulatory authorities related to the permitting for offshore wind turbines and transmission cables through an equity lens related to fisheries impacts and take action to implement corrective actions identified in the assessment as appropriate.

This assessment should evaluate the following issues:

- a. Efficacy of existing State authorities in addressing fisheries impacts anticipated from offshore wind.
- b. Ability and cost of fishing industry members and communities to participate effectively in the regulatory processes that evaluate impact on fishing activity and the marine environment.
- c. Mechanisms available to provide support or capacity for improved participation.
- d. Ways to improve fishing industry access, equity, and capacity in State permitting.