



December 16, 2022

Bridgette Duplantis
Bureau of Ocean Energy Management (BOEM)
Office of Leasing and Plans
1201 Elmwood Park Boulevard
New Orleans, LA 70123

Re: Central Atlantic Draft Wind Energy Areas

Dear Ms. Duplantis,

On behalf of the Mid-Atlantic and New England Fishery Management Councils, please accept these comments on the draft wind energy areas (WEAs) for the Central Atlantic region. We urge BOEM to consider these comments when developing final WEAs which may be further refined into wind energy lease areas.

The Mid-Atlantic Council manages more than 65 marine species in federal waters and is composed of members from the coastal states of New York to North Carolina (including Pennsylvania). The New England Council has primary management jurisdiction over 28 marine fishery species in federal waters and is composed of members from the coastal states of Maine to Connecticut. In addition to managing these fisheries, both Councils have enacted measures to identify and conserve essential fish habitats, protect deep sea corals, and sustainably manage forage fisheries. The Councils support policies for U.S. wind energy development and operations that will sustain the health of marine ecosystems and fisheries resources. While the Councils recognize the importance of domestic energy development to U.S. economic security, we note that the marine fisheries throughout New England and the Mid-Atlantic, including within the Central Atlantic Call Areas and in surrounding areas, are profoundly important to the social and economic well-being of communities in the Northeast U.S. and provide numerous benefits to the nation, including domestic food security.

As described in more detail below, our key recommendations for the draft WEAs include:

- Remove the entirety of all Frank R. Lautenberg Deep Sea Coral Protection Areas, including the discrete zones and the entire broad zone, from further consideration for wind energy development.
- Further clarify the specific data sets for coral presence and coral habitat suitability which were incorporated into the modeling exercise and how those data were weighted against other datasets.
- Consider additional data sources for commercial and recreational fisheries, including vessel trip report data.
- Remove areas identified in the “Prime Fishing Grounds of New Jersey” dataset from further consideration.

Overlap with deep sea coral protection areas

The Draft WEAs in Call Area E are within the Frank R. Lautenberg Deep Sea Coral Protection Area broad zone. As we stated in comment letters in December 2021 and June 2022,¹ as well as through verbal comments provided during the February 2022 Task Force meeting, all Frank R. Lautenberg Deep Sea Coral Protection Areas, including the discrete and broad zones, must be excluded from all stages of offshore wind energy planning and development. These areas include known and likely coral presence (Figure 1). Deep sea corals form important and sensitive habitats. Most deep sea corals are slow-growing and fragile; therefore, damage caused by the installation, maintenance, operations, and decommissioning of offshore wind energy projects must be completely avoided.

The Frank R. Lautenberg Deep Sea Coral Protection Areas and the associated fishing gear prohibitions became effective in January 2017. These areas were defined based on a combination of records of coral presence² and habitat suitability modeling.³ This information is summarized in Figure 1. The Mid-Atlantic Council focused on structure-forming corals when defining these areas; however, the fishing gear prohibitions also benefit other corals and other habitat types within these areas.⁴ Use of all types of bottom-tending commercial fishing gears (including, but not limited to bottom-tending otter trawls, bottom-tending beam trawls, hydraulic dredges, non-hydraulic dredges, bottom-tending seines, bottom longlines, pots/traps, and sink or anchored gillnets) are prohibited within these areas, with narrow exemptions for transit, lobster trap gear, and red crab trap gear (81 Federal Register 90246, 12/14/2016; 50 CFR § 648.372). The prohibitions are not fishery-specific and the same restrictions apply to all discrete zones and in the broad zone.⁵

Placing wind energy structures, including foundations and cables, in these areas, would negate protections established by the Mid-Atlantic Council after a multi-year, thorough, transparent, and stakeholder driven process. The New England Council adopted a similar deep sea coral protection area south of Georges Bank, which was implemented in 2021. Combined, these areas

¹ Both letters are available at <https://www.mafmc.org/correspondence>.

² NOAA National Database for Deep Sea Corals and Sponges (Database version: 20211110-0). <https://deepseacoraldata.noaa.gov/>. NOAA Deep Sea Coral Research & Technology Program.

³ Kinlan, B.; Poti, M.; Dorfman, D.; Caldow, C.; Drohan, A.; Packer, D.; Nizinski, M. (2016). Model output for deep-sea coral habitat suitability in the U.S. North and Mid-Atlantic from 2013 (NCEI Accession 0145923). Threshold Logistic Outputs for Alcyonacea. NOAA National Centers for Environmental Information (NCEI). <https://www.ncei.noaa.gov/archive/accession/0145923>.

A description of how this model was used to define the Frank R. Lautenberg Deep Sea Coral Protection Areas can be found in section 6.3.2.4 of the Environmental Assessment for the Deep Sea Corals Amendment, available at <https://www.mafmc.org/actions/msb-am16>.

⁴ For more information, see <https://www.mafmc.org/actions/msb-am16>.

⁵ Although these restrictions were implemented through Amendment 16 to the Mackerel, Squid, and Butterfish Fishery Management Plan, they apply to all bottom tending gear, not just for the mackerel, squid, and butterfish fisheries (with specific exclusions for American lobster, red crab, and transiting).

clearly indicate the high value the Councils place on conserving deep sea habitats over an extensive geographic area.

In addition, placing wind energy structures in these protected sensitive habitat areas would run counter to the federal administration's goal to conserve 30 percent of America's lands and waters by 2030 through the America the Beautiful initiative.

Coral data

The draft report on development of the draft WEAs⁶ does not provide sufficient detail for us to fully understand how data on coral presence and coral habitat suitability were utilized. By request, BOEM staff provided us with additional details and an additional report on coral and hardbottom habitat considerations.⁷ However, we have not had time to review this information prior to the deadline for this comment period. We were not previously aware of this additional report and we did not see a reference to it in the draft report on the draft WEAs.

We recommend that BOEM provide more details in future WEA documentation on which data were considered and how they were used, including which data were used as constraints (i.e., resulting in exclusion from consideration for draft WEAs) and how other data not used as constraints were weighted against other data sets in the model. For example, more detail should be provided on which coral taxonomic groups were considered (Alcyonacean, Alcyonacean non-gorgonian, Alcyonacean gorgonian, Pennatulaceans) and which levels of habitat suitability were used (e.g., all levels or only higher suitability levels). For coral data, we recommend that BOEM work with NOAA's Deep-Sea Coral Research and Technology Program to ensure that all available data have been integrated into the analysis. It is important to note that the draft WEAs have not been adequately surveyed for the presence of deep sea corals. Therefore, a lack of coral records and/or poor habitat suitability based on a predictive model should not necessarily be interpreted as a lack of coral presence.

While identified as constraints, it appears that all data points of known coral presence were not excluded from the draft WEAs. This is evident from the WEA option characterization as described in the draft report associated with this comment period (Table 3.20, Figure 3.58), but it is not clear in the methods section. We recommend explaining in the section on the habitat suitability model methods that constraints did not always preclude an area from being included in a draft WEA. For example, based on the information shown in the map attached to this letter, as well as in Figure 3.1 in the draft report on the draft WEAs, locations of known coral presence in

⁶ Randall, A. L., J. A. Jossart, B. M. Jensen, B. H. Duplantis, J. A. Morris. 2022. Development of the Central Atlantic Wind Energy Areas (Draft). Accessed in December 2022 from <https://www.boem.gov/renewable-energy/state-activities/central-atlantic>.

⁷ Poti, M, H. F. Goyert, E. J. Salgado, R. Bassett, M. Coyne, A. J. Winship, P. J. Etnoyer, T. F. Hourigan, H. M. Coleman, J. Christensen. 2022. Data synthesis and predictive modeling of deep-sea coral and hardbottom habitats offshore of the southeastern US: Guiding efficient discovery and protection of sensitive benthic areas. OCS Study BOEM 2022-038. Available at https://espis.boem.gov/final%20reports/BOEM_2022-038.pdf.

Call Area E were identified as constraints, but three areas with coral records remain within the draft WEAs (e.g., Figure 3.19 compared to Figures 3.20 and 3.58 in the draft report).⁸

Although development of the Frank R. Lautenberg Zones focused on structure-forming corals, we recommend that BOEM also consider data on the presence of and habitat suitability for sponges. Non-encrusting sponges are structure forming epifauna, fragile, and vulnerable to anthropogenic impacts. They are also a good proxy for hard bottom; therefore, protecting areas with known or likely sponge presence can also protect other sensitive habitats. Sponge data are available from the NOAA Deep-Sea Coral Data Portal.⁹ We are unclear as to whether these data have already been incorporated into the siting analysis.

It is important to emphasize that concerns regarding coral habitat data would be completely addressed by fully removing the Frank R. Lautenberg Deep Sea Coral Protection Areas, including the discrete and broad zones, from further consideration. In establishing these protected areas, the Mid-Atlantic Council took a precautionary approach to protecting sensitive coral habitats and BOEM must do the same.

Commercial and recreational fisheries information

We appreciate that NMFS fisheries-independent surveys were considered during model development. This supports mitigation of offshore wind energy impacts on fishery surveys, consistent with NOAA Fisheries and BOEM's recently released Federal Survey Mitigation Strategy.¹⁰

The draft report on development of the draft WEAs notes that only two fisheries data sets were used in the modeling exercise to define the draft WEAs: vessel monitoring system (VMS) data for 2016-2021 and Southeast Region Headboat Survey data for 2014-2020. As noted in the draft report, these data sets do not encompass all commercial and recreational fisheries in the region. VMS is not required in all fisheries. The draft report notes that the fisheries represented in the VMS dataset include commercial fisheries for scallops, highly migratory species (i.e., certain tunas and billfish, including the pelagic longline fishery), monkfish, Atlantic mackerel, *Illex* and longfin squid, butterfish, surfclam, Atlantic herring, and "Declare Out of Fishery" (vessels who hold a permit requiring a VMS). The Southeast Region Headboat Survey collects data from recreational for-hire vessels from North Carolina through Texas.

As such, it appears that the modeling exercise that informed development of the draft WEAs did not include any data on private recreational angling, on for-hire vessels permitted through the NOAA Greater Atlantic Regional Fisheries Office (GARFO) but not through the Southeast Regional Office (SERO), or on any commercial fisheries not requiring VMS. Many important

⁸ It appears that Figure 3.56 in the draft report should have included a closer view of these details for draft WEA E-1; however, that figure appears to have been mistakenly replaced with a map for the Gulf of Mexico.

⁹ <https://deepseacoraldata.noaa.gov/>

¹⁰ Hare JA, Blyth BJ, Ford KH, Hooker BR, Jensen BM, Lipsky A, Nachman C, Pfeiffer L, Rasser M, Renshaw K. 2022. NOAA Fisheries and BOEM Federal Survey Mitigation Implementation Strategy - Northeast U.S. Region. NOAA Technical Memorandum 292. Woods Hole, MA. 33 pp.

commercial and recreational fisheries managed by our Councils appear to be missing from the analysis. The analysis is inadequate and should be revised if this is the case.

We urge BOEM to work with partners at NOAA Fisheries to consider how to best incorporate other commercial and recreational fisheries data sets. We understand that given the nature of the modeling framework, it is not straightforward to combine multiple fisheries datasets and doing so can lead to unintended consequences such as double counting certain fisheries. However, we believe further work to consider how to most appropriately combine multiple fisheries datasets would be beneficial. For example, we encourage consideration of vessel trip report (VTR) data as VTRs are required of all commercial and for-hire vessels which are permitted through GARFO. Any analytical approaches developed may be transferable to spatial analysis for other regions, for example on the west coast or in the Gulf of Maine.

We also recommend further consideration of the dataset referred to as the Prime Fishing Grounds of New Jersey, which includes commercial and recreational fishing areas.¹¹ It is not clear if this dataset was already considered. Three fishing areas from this dataset overlap with the draft WEAs, including the areas referred to as the Doc Lummis Slough and the Parking Lot in the draft WEAs in Call Area A as well as the area referred to as the T Cup in the draft WEAs in Call Area B. These are areas where environmental conditions have created natural sloughs or natural shell hash bottoms, which are important habitats for many species. As such, they should be removed from further consideration for wind energy development due to both fisheries and habitat importance.

Spatial buffers between wind energy structures and sensitive ecological features and important habitats are an appropriate way to reduce the impacts of wind energy projects. The draft report on the WEAs indicates that a 1,000-meter buffer was used for areas of known coral presence and a 500-foot setback for areas identified as fish havens. The report does not indicate what, if any, buffer distance was used for other hard bottom areas or artificial reefs (e.g., shipwrecks that are important fishing sites). The Councils do not have a recommendation for a specific buffer distance that would be appropriate in all circumstances. We recommend that BOEM provide details on the rationale for all buffers.

It will be important to coordinate with multiple offices within NOAA to ensure that all relevant fisheries data are considered, including GARFO for data on species managed by the Mid-Atlantic and New England Councils, SERO for data on species managed by the South Atlantic Council, and the Sustainable Fisheries Headquarters Office for data on highly migratory species fisheries.

After updating the model to consider a more complete representation of commercial and recreational fisheries in this region, BOEM should provide a detailed report on exactly which data were used and why, as well as how those data were weighted in the model.

¹¹ Available at <https://gisdata-njdep.opendata.arcgis.com/datasets/njdep::prime-fishing-grounds-of-new-jersey/about>.

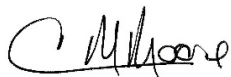
Approach to lease area development

We appreciate that BOEM made these draft WEAs available for public comment. We understand this step has not been taken for previous WEAs. This increases transparency in the process and provides an additional opportunity for public input. We also support the use of a spatial analysis tool, coupled with input from subject matter experts and public comments, to consider how to best balance multiple factors when determining the most suitable areas for wind energy development.

We urge BOEM to take the time to thoroughly consider public input and improve the modeling analysis before finalizing the WEAs. As we have previously commented to BOEM, we see no need to rush into leasing additional areas. From Maine through North Carolina, there are already 13 projects in the planning stages, two projects currently under construction, and two small projects in operation. In addition, technological and offtake capacity limitations preclude near-term development of many of these areas.

We look forward to further engaging with you on this issue. 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: J. Beaty, M. Luisi, W. Townsend, M. Bachman

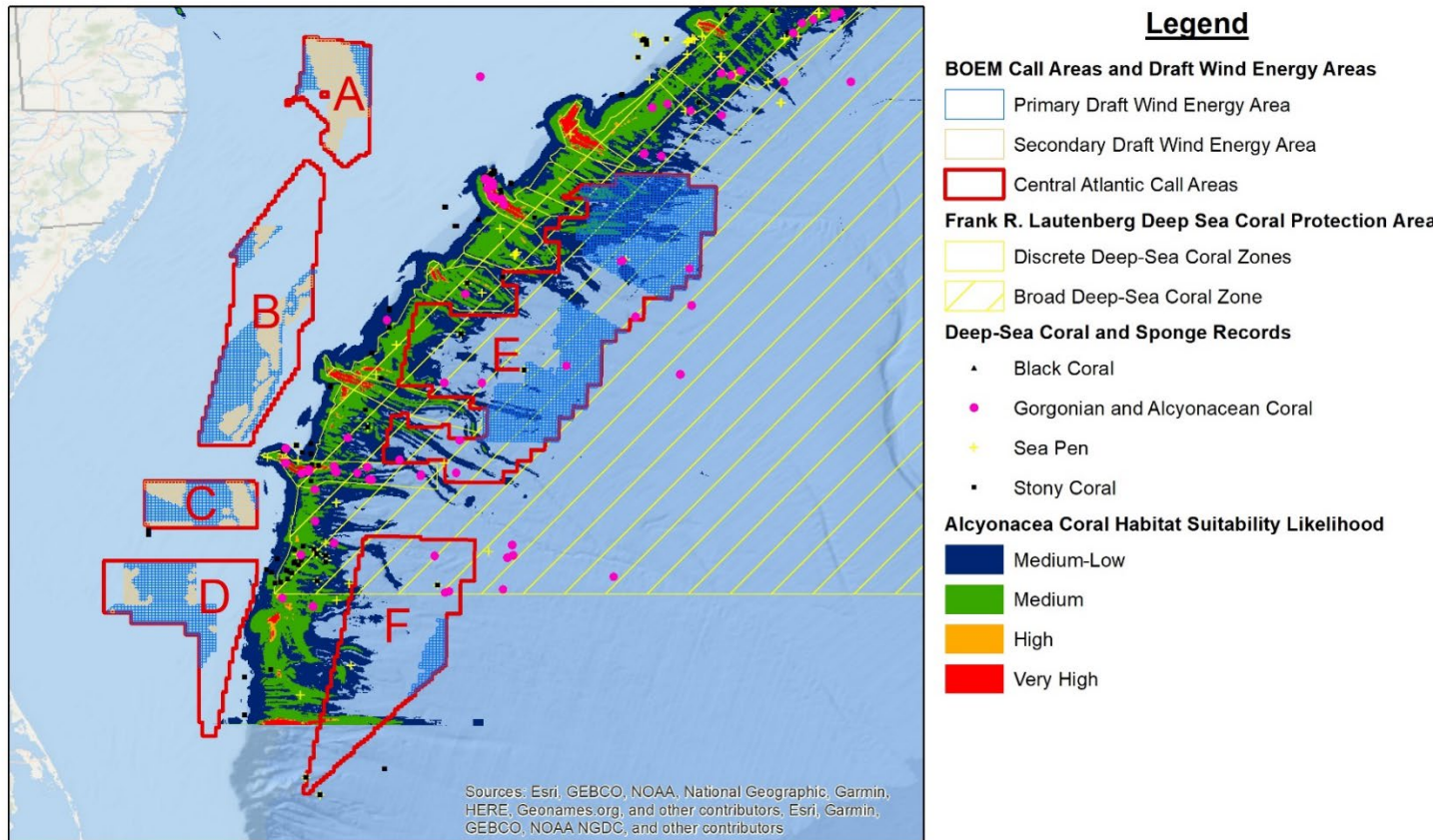


Figure 1: BOEM Central Atlantic Call Areas, Draft Wind Energy Areas, Frank R. Lautenberg Deep Sea Coral Protection Areas, modeled coral habitat suitability for Alcyonacea corals (gorgonian and non-gorgonian outputs combined; expected to be the best predictor of habitat suitability for structure-forming corals),¹² and historical records of known coral presence with structure forming corals highlighted.¹³ “Gorgonian and Alcyonacean Coral” includes soft coral, gorgonian coral, and stoloniferan coral.

¹² Kinlan, B.; Poti, M.; Dorfman, D.; Caldwell, C.; Drohan, A.; Packer, D.; Nizinski, M. (2016). Model output for deep-sea coral habitat suitability in the U.S. North and Mid-Atlantic from 2013 (NCEI Accession 0145923). Threshold Logistic Outputs for Alcyonacea. NOAA National Centers for Environmental Information (NCEI). <https://www.ncei.noaa.gov/archive/accession/0145923>.

¹³ NOAA National Database for Deep Sea Corals and Sponges (Database version: 20211110-0). <https://deepseacoraldata.noaa.gov/>. NOAA Deep Sea Coral Research & Technology Program.