New England Fishery Management Council

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

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Jonathan Hare
Science and Research Director
National Oceanic and Atmospheric Administration
Northeast Fisheries Science Center
166 Water Street
Woods Hole, Massachusetts 02543

Brad Blythe
Chief, Branch of Biological and Social Sciences & BOEM Scientific Integrity Officer
Bureau of Ocean Energy Management
Office of Renewable Energy Programs
45600 Woodland Road (VAM-OREP)
Sterling, Virginia 20166

Dear Dr. Hare and Dr. Blythe,

Please accept these comments from the New England Fishery Management Council (New England Council) and the Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) regarding the NOAA Fisheries and BOEM Federal Survey Mitigation Implementation Strategy for the Northeast U.S. Region. The Councils rely heavily on NOAA's scientific surveys for development of key management measures, including measures required by law such as annual catch limits. We strongly support efforts to understand and mitigate the negative impacts of offshore wind development on these surveys.

The New England Council has primary management jurisdiction over 28 marine fishery species in federal waters and is composed of members from Maine to Connecticut. The Mid-Atlantic Council manages more than 65 marine species[1] in federal waters and is composed of members from the coastal states of New York to North Carolina (including Pennsylvania). In addition to managing these fisheries, both Councils have enacted measures to identify and conserve essential fish habitats (EFH), protect deep sea corals, and sustainably manage forage fisheries. The Councils support efforts to mitigate the effects of climate change, including the development of renewable energy projects, provided risks to the health of marine ecosystems, ecologically and economically sustainable fisheries, and ocean habitats are avoided.

While the Councils recognize the importance of domestic energy development to U.S. economic security, it is important to note that marine fisheries throughout New England and the Mid-Atlantic 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.

[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.

Both Councils updated their policy on wind energy development in December 2021, working together on policy development and adopting the same language. Our comments in this letter build upon this policy.

Summary of Recommendations

- As time and resources allow, consider impacts to the Northeast Area Monitoring and Assessment Program (NEAMAP) and other partner surveys as part of the mitigation strategy.
- Provide additional detail on the intent and differences between certain objectives.
- Clarify the feasibility of implementing mitigation program and survey-specific plans given resource and funding constraints.
- Recommend data sharing strategies.
- Establish new, long-term monitoring surveys.
- Analyze cumulative effects on NOAA surveys from all wind projects.
- Streamline and facilitate process for obtaining the necessary incidental take authorizations for endangered and protected species for surveys completed by wind developers.
- Bring in the Northeastern Regional Association of Coastal Ocean Observing Systems (NERACOOS) and Mid-Atlantic Coastal Ocean Observing System (MARACOOS) as partners.
- Seek Council participation on work groups and consult with Councils on effectiveness of monitoring efforts.
- Develop a NOAA website to host updated implementation strategy materials, announcements of public meetings and comment opportunities, and a tracking dashboard measuring progress and effectiveness of mitigation measures.

Completeness of Strategy, Impacts, and Components

This strategy should more explicitly consider implications for other partner surveys such as the Northeast Area Monitoring and Assessment Program (NEAMAP). Such evaluations might be more limited than those completed for core NOAA Fisheries surveys, but it would be useful to estimate the extent to which these surveys may be impacted by development and what the effects might be on fisheries management.

The draft mitigation strategy states it is too late to avoid impacts to NOAA Fisheries surveys from offshore wind projects with approved Construction and Operations Plans (i.e., Vineyard Wind 1 and South Fork Wind). The magnitude of survey impacts from these projects is unclear and should be clarified. To avoid loss of data quantity, accuracy, and precision, with associated downstream impacts, the impacts of these projects will need to be mitigated through this implementation strategy. Clarity should be provided on the feasibility of redesigning surveys or deploying new types of surveys at sites where projects have already been permitted.

Goals, Objectives, and Actions

We agree that a "workflow for identifying federal survey mitigation needs in a timely manner as part of the permitting and leasing framework" (Action 1.1.2) is important. However, we would

appreciate more detail on what this means. Is this action envisioned as part of the EIS development process, where impacts of specific projects on surveys are identified? Action 3.1.1 under Goal 3 is to "Document and analyze impacts of offshore wind energy development on NOAA Fisheries surveys during the environmental review process for individual projects", so we assume something different is envisioned here. Or is this action intended to be a broader effort, thinking across multiple projects and timelines? The reference to the leasing framework suggests that the idea is to begin considering survey mitigation needs early in the process, as lease areas are being developed. We would agree with this. This might be especially important in the Gulf of Maine or in other deep-water areas if vessel access for alternative surveys is challenging due to floating arrays (this relates to Action 3.2.3).

Given the complexity and importance of mitigating impacts to NOAA Fisheries surveys, it will be important to obtain all necessary resources, including funding, to achieve all the outlined goals and objectives (objectives 1.2 and 1.3 in the draft strategy). Section 8 in the draft strategy includes a list of potential funding sources, which are not guaranteed. Table 2 includes numerous actions with completion dates beginning this fall that are not yet funded. If all the outlined goals, objectives, and actions cannot be achieved using federal funds or other grants, we recommend any applicable survey mitigation measures be required as part of lease and permit conditions for wind projects (Action 1.3.2). Alternatively, NOAA and BOEM could prioritize and complete a focused subset of the actions versus partially addressing all actions.

As part of either Objective 2.2 or Goal 4, we suggest considering new, long-term monitoring surveys to be conducted by NOAA Fisheries. Long-term monitoring is important to adequately sample new habitats created by offshore wind energy development, species regime shifts because of climate change, etc.

Cumulative effects on NOAA Fisheries surveys from all offshore wind energy projects should be analyzed as part of Objective 3.1, Action 3.1.1. Documenting and analyzing impacts for individual projects is important; however, the aggregate effects are critical to understanding regional impacts.

Objectives 4.1 and 4.2 are similar. It would be helpful to outline specific review tasks to be completed quarterly (strategy review) vs. annually (program and survey-specific plan reviews). We assume that survey-specific plan reviews will be done after the survey is conducted each year, but in time to adapt the mitigation plan for the following year. Since surveys are done on different schedules, this could argue for a rolling review survey by survey, rather than a larger annual evaluation.

Consideration of new survey technologies will be important but issuing and evaluating responses to an annual request for information for survey technologies (Action 4.4.1) could be quite time-consuming. It would be useful to know more about what this process might entail, and how alternative survey technologies would be evaluated by NOAA Fisheries. This seems like an area of work where identifying partners who are also exploring or using these technologies would be worthwhile.

We are encouraged that Objective 4.5 includes monthly tracking and reporting on wind energy development in the U.S. This product will be useful beyond survey mitigation. As part of Action

4.5.1, we strongly urge BOEM to include downloadable GIS layers with proposed project layouts including cable routes as part of the dashboard for stakeholders to understand the regional cumulative effects of all proposed projects more easily.

Additional detail and specificity should be provided for Objective 4.6 as it is not clear if the intention is to adapt surveys to reflect ecosystem changes. If survey adaptation due to climate change is already planned for, this should be integrated with offshore wind survey mitigation work.

Goal 5 (coordinated execution and sharing knowledge) is essential. Ideally NOAA and BOEM staff and other partners from outside the region will be integrated into the process at the outset so knowledge sharing can occur on an ongoing basis.

Developer Monitoring Surveys

We strongly support evaluation and integration of developer monitoring surveys with NOAA Fisheries surveys (Goal 2), regional standards (Objective 2.1), and compatibility with NOAA surveys (Objective 2.2). Data sharing strategies, including plans for distributing developer-collected data, should be further elucidated. The strategy should clarify whether and how developer-collected monitoring data will be combined with or aligned with data from the NOAA Fisheries surveys. We recommend that all project-specific monitoring studies be shared with NOAA Fisheries, made publicly available, and integrated with the existing survey data where possible. When these studies cannot be integrated with NOAA Fisheries survey data to support fisheries management, an explanation for why should be provided for future data users.

We understand that surveys conducted by developers may require authorizations under the Marine Mammal Protection Act and the Endangered Species Act. Especially as these surveys can represent continuous time series, timely issuance of any required authorization is important to avoid temporal gaps in coverage. The mitigation strategy should consider ways to facilitate and streamline this process.

Working with Partners

We appreciate that the draft strategy identifies the Councils as partners in the survey mitigation process. We understand that the strategy was intentionally left open-ended as to how stakeholders including the Councils might be involved. Suggested paths for Council involvement include:

- Council member and/or staff participation in work groups addressing specific issues (e.g., the Scallop Survey Working Group), based on resource availability and expertise.
- Consultation on the effectiveness of long-term monitoring efforts to adequately measure impacts of offshore wind development on Council-managed species.

NERACOOS and MARACOOS (Northeast and Mid-Atlantic Regional Association Coastal Ocean Observing Systems) would also be useful partners in this work.

Communication and outreach recommendations

Survey mitigation is a complex, long-term issue that will involve multiple teams working across NOAA, BOEM, and partner organizations. Offshore wind development is complex and fast-moving. We suggest the following ways to improve communication on these issues:

- We agree that a NOAA website (Action 5.3.3) is essential. This site should host the final strategy, a routinely updated copy of the Goals, Objectives, and Actions table, announcements of public meetings and comment opportunities, and other related reports and information. The website should also include Objective 4.3's dashboard for tracking how the mitigation measures are being implemented and adapted, and whether the measures have been effective at achieving the stated goals and objectives.
- NOAA should identify a staff member to liaise with the Councils and serve as a point of contact on survey mitigation issues (perhaps the program coordinator noted in Action 5.1.2). This individual should provide periodic updates to the Councils during their meetings at appropriate intervals, perhaps twice per year.
- Communications and outreach should not focus just on scientific publications and scientific presentations. The strategy should more explicitly acknowledge that communications and outreach to non-technical audiences will be prioritized. For example, BOEM and NOAA should provide easily digestible information on the likely impacts survey changes will have on stock assessments and scientific uncertainty levels used in management, where possible. Impacts on assessments will be important for Councils (including their Scientific and Statistical Committees) to understand. The issue of survey mitigation is complex, and detailed materials will be important for scientific stakeholders; however, other users will appreciate higher-level summaries of changes made and their implications.

Minor errors noted in the draft strategy

The following errors in the document are not substantive to the overall conclusions drawn but should be corrected in the final strategy document.

- Councils should be referred to as Fishery (not Fisheries) Management Councils on page 18 and throughout the document.
- The document refers to the Management and Conservation Act on page 18; this should be corrected to Magnuson-Stevens Fishery Conservation and Management Act.
- Page 18 and page 25 refer to the Atlantic States Marine Fisheries Commission as "the Interstate Fisheries Commission" and the "Marine Fisheries Commission", respectively. The phrase Atlantic States Marine Fisheries Commission would be clearer.
- The role of states in fisheries management is downplayed on page 19. The Atlantic States Marine Fisheries Commission (ASMFC) is composed of "member states", not "representatives from coastal states." The states' role in ASMFC should also be noted under the state bullet on page 19 given that the states manage fisheries.

Conclusion

We look forward to working with NOAA and BOEM on these important issues. Please contact us if you have any questions.

Sincerely,

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

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

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