



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of Permitting and Project Navigation

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March 31, 2023

Georgeann Smale
Renewable Energy Modernization Rule Lead
Office of Regulations, BOEM
45600 Woodland Road
Sterling, VA 20166

RE: Docket No. BOEM-2023-0005
BOEM proposed rulemaking: Renewable Energy Modernization Rule

Dear Ms. Smale,

The New Jersey Department of Environmental Protection (NJDEP) appreciates the opportunity to provide comments on the proposed Renewable Energy Modernization Rule by BOEM.

Under the leadership of Governor Phil Murphy, New Jersey's development of offshore wind energy, together with other clean and renewable energy sources, is critical to addressing the challenges associated with climate change and to building a clean energy economy. As a state with one of the most ambitious offshore wind goals in the nation, we are on the path to achieving 11,000 MW of offshore wind power by 2040, and 100% clean electricity by 2035. As the State pursues the responsible development of offshore wind, the NJDEP is obligated, pursuant to the federal Coastal Zone Management Act, 16 U.S.C. § 1451, et seq., and related state laws, to preserve, protect, restore, and enhance the resources of the State's coastal zone.

NJDEP supports updates to the BOEM process for offshore wind development that seek to address conflicts of ocean uses, encourage enhanced coordination among state and federal government as well as developers and stakeholder groups, and prioritize the protection of natural resources,

Bidding Credits

NJDEP's Marine Resources Administration (MRA) supports the inclusion of bidding credits for fisheries mitigation as described in the Gulf of Mexico Public Sale Notice, Docket No. BOEM-2023-0021, specifically, "...granting bidding credits to bidders that commit to (2) establishing and contributing to a fisheries compensatory mitigation fund or contributing to an existing fund to mitigate potential negative impacts to commercial and for-hire recreational fisheries caused by OCS offshore wind development..." As one of the east coast states that have been engaged in supporting mitigation for fisheries through a regional compensation fund, New Jersey appreciates the confluence of federal and state efforts to

provide practical solutions to facilitate equitable compensation to our commercial and for hire fisheries if they are impacted by offshore wind development.

Survey Requirements

MRA recommends that survey requirements consider the importance of accurate, detailed, and complete coverage of the lease area and potential export cable routes to allow for complete assessment of potential impacts during siting of turbines, substations, and cables, to allow for potentially more flexibility in micro-siting options.

A second concern that might be addressed in this rulemaking is making survey work metadata more accessible to the public. MRA is aware of stakeholder concerns about potential impacts on fishing and marine mammals from survey efforts. Therefore, reporting on survey locations, times, dates, and equipment used along with clear and concise descriptions of related research would provide transparency to those concerned about resource interactions.

As described above, avoidance of use conflicts during export cable siting is challenging. Marine debris, prime fishing areas, artificial reefs, sand borrow areas, unexploded ordinance, and telecom cables in the offshore environment are common on the outer continental shelf. MRA recommends that BOEM address the need for regional spatial planning and cable routing in advance of final cable siting.

Additionally, NJDEP supports the amendment to the construction and operation plan (COP) review process which would designate the draft National Environmental Policy Act (NEPA) analysis as necessary data and information for federal consistency review and set the publication of the draft environmental impact statement (DEIS) as the starting point for the federal consistency review period. State coastal programs, when provided with adequate information on the design and impacts of project proposals, have extensive experience using federal consistency to efficiently review proposals and identify effective solutions to avoid or mitigate adverse impacts on ocean and coastal uses and resources. To better align the Department's Coastal Zone Management Act (CZMA) with the NEPA review, the DEP has entered into stay agreements with various developers. This has created inefficiency and uncertainty for both the developers and the DEP. Better aligning the CZMA and NEPA review processes will achieve greater clarity, predictability, and efficiency for developers, federal agencies, and states. If BOEM's authority allows, NJDEP further recommends that this change to the federal consistency timeline also be applied to existing projects if possible.

Thank you for providing the New Jersey Department of Environmental Protection with the opportunity to comment on the proposed Renewable Energy Modernization Rule. If you have any questions or would like to discuss any of these comments, please contact Elizabeth Lange at Elizabeth.Lange@dep.nj.gov.

Sincerely,

A handwritten signature in black ink that reads "Megan Brunatti". The signature is written in a cursive, flowing style.

Megan Brunatti
Deputy Chief of Staff