



August 2, 2021

Program Manager, Bureau of Ocean Energy Management  
Office of Renewable Energy Programs  
45600 Woodland Road (VAM-OREP)  
Sterling, Virginia 20166

Re: Notice of Intent to Prepare an EIS for the Coastal Virginia Offshore Wind project

Dear Sir/Madam,

Please accept these comments from the New England Fishery Management Council (New England Council) and Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) regarding the Notice of Intent to prepare an Environmental Impact Statement (EIS) for the Construction and Operations Plan (COP) for the Coastal Virginia Offshore Wind (CVOW) project. The COP proposes to install up to 205 wind turbine generators with monopile foundations and two or three offshore substations with jacket foundations. The wind turbines and substations would be connected by up to 301 miles of inter-array cables. The project would be connected to shore by up to nine export cables totaling up to 417 miles in length and sharing a common cable route corridor. Wind turbines would be spaced approximately 0.86 miles apart in an east-west direction and 1.06 miles in a north-south direction.

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<sup>1</sup> 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 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 CVOW project area 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.

### **General comments**

The pace and number of offshore wind projects in development in our region pose challenges for thorough analysis of potential impacts, informed public input, and adopting lessons learned from each project. There are over a dozen projects for which survey, design, and environmental review are already occurring and multiple additional areas in the New York Bight are planned to be leased. Five projects, including this one, entered the DEIS development phase through

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<sup>1</sup> 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.

issuance of NOIs between March and the beginning of July, and additional NOIs are expected later this year. Available resources in the fishing, fishery management, and fishery science communities are already taxed by consulting and coordinating on these projects. Consistency in approaches and adopting lessons learned from one project to the next will benefit stakeholders who engage in the review process for these complex projects.

We understand that the BOEM regulations allow offshore wind project developers to revise their COPs throughout the environmental review process. This poses significant challenges for stakeholders and partner agencies to provide input on and understand the likely impacts of the project. We understand that the final project design must fall within the analyzed project design envelope. The project design envelope approach is logical given the time needed to complete environmental review and continuous advances in technology. However, we are concerned that the desire to allow flexibility in final project design can result in too wide of a design envelope and uncertainty in the actual impacts of the project. To help address this concern, we request that BOEM announce to the public whenever a COP has been revised.

As the impacts analysis is developed, clear terminology will be important for readers to understand the complexity of the alternatives considered and the large number of impact-producing factors and environmental resources evaluated. It also would be useful to specify both magnitude and direction when characterizing impacts, and for the EIS to define short and long term in the context of impacts.

### **Alternatives considered in the EIS**

The COP suggests that 179-205 turbines ranging from 14 to 15 MW in capacity may be selected in the final project design, along with 2-3 offshore substations and up to nine offshore export cables. The EIS should not analyze this full range of parameters as a single alternative. Instead, distinct alternatives should be analyzed to allow for comparison of impacts at the smallest, largest, and one or more intermediary potential scales of the project. The alternatives should allow for different potential numbers of turbines, substations, and export cables, as well as turbine capacities to be “mixed and matched,” rather than grouped into pre-determined combinations.

In addition, we recommend that BOEM develop a habitat minimization alternative that will minimize impacts to sensitive habitats including eelgrass, hard bottom, and complex topography. This alternative should consider reduced numbers of turbines, restrictions on turbine locations, different turbine foundation types, and various cable routing options. Our concerns about habitat impacts are discussed in greater detail in the following section.

The EIS should also analyze a fisheries mitigation alternative with reduced numbers of turbines, excluded turbine locations, and wide spacing between turbines to minimize impacts to commercial and recreational fishing operations, including transit.

For all alternatives, the EIS should be clear on which mitigation measures will be required as opposed to discretionary. Only required mitigation measures should influence the impacts conclusions in the EIS. Avoidance, minimization, and compensation for negative impacts should

all be considered, with compensation thoroughly planned for, but used only as a last resort if avoidance or mitigation are not possible or are not achieved.

### **Fisheries and habitat considerations**

BOEM should coordinate early and often with NOAA Fisheries (including the Greater Atlantic and Southeast Regional Offices for most fisheries, as well as NOAA Fisheries headquarters for tuna, shark, swordfish, and billfish fisheries) on the most appropriate data for analysis of potential impacts to fisheries, including fishing and transiting locations, as well as socioeconomic impacts. The EIS should clearly and repeatedly acknowledge the limitations of each data set. Summary information on Council-managed fisheries is also available on the Council websites, [www.mafmc.org](http://www.mafmc.org), and [www.nefmc.org](http://www.nefmc.org), at fishery management plan-specific links, typically via annual fishery information reports (MAFMC) or recent plan amendment or framework documents (both councils). The EIS should include recent data and should analyze multiple years of data to capture variations in fisheries and environmental conditions.

Commercial and recreational fisheries provide a wide range of benefits to coastal communities; not all are captured by looking only at financial metrics. The EIS should not overly rely on ex-vessel value when assessing and weighting impacts across various fisheries. Focusing on ex-vessel value can mask other important considerations such as the number of impacted fishery participants, the use of a low-value species as bait for a high-value species, or a seasonally important fishery.

Models exist to estimate the amount of fisheries revenue generated from within the project area; however, it is important to acknowledge that changes in transit patterns will also have economic impacts and these impacts will be challenging to accurately quantify.

Commercial, for-hire recreational, and private recreational fishing should be considered separately, but in the same or adjacent sections of the document. As the Councils have stated in comment letters for other wind projects, the grouping in previous EIS documents of private recreational fishing with recreation and tourism, rather than with commercial and for-hire fisheries, is not intuitive to us and makes it challenging for readers to understand the full picture of potential impacts on all fishery sectors. If fishery species are affected by the project (including impacts to target species as well as their prey or forage species and impacts to habitat determinant species), this will affect both for-hire and private recreational fishing. Grouping both types of recreational fishing would make linkages between biological and fishery conditions more straightforward to explain.

Commercial and recreational fishermen choose where to fish based on many factors, including, but not limited to, where target species are located and where regulations allow; thus, they cannot necessarily relocate to a different area to avoid a windfarm without socioeconomic impacts. The EIS should explore this issue in detail. The likely extent of impacts will be important to understand in the context of developing mitigation agreements for affected fishing industry members.

The impacts of the project will not be felt only by fishermen from nearby ports; the EIS should consider commercial and recreational fisheries over a wide geographic area that may be

impacted by the project. For example, vessels traveling from ports north and south of the project area may transit through and/or fish in the area. Again, BOEM should coordinate with NOAA Fisheries on the best data regarding fishing and transit, the EIS should clearly acknowledge the limitations of the available data, and local fishermen should be consulted to better understand use patterns not captured in the data. As we have stated in previous comment letters, we strongly urge mitigation funds be provided to all affected vessels regardless of homeport.

Fishing effort can change based on management actions such as a change in access areas, or changes in allocations to different fishery sectors or states (e.g., black sea bass, bluefish). It is important to account for the dynamic nature of fishing effort over time when evaluating impacts to fishermen and fishing communities. This is an area of the EIS where cumulative considerations are especially critical and the CVOW project cannot be considered in a vacuum. Many other wind projects are proposed throughout New England and the Mid-Atlantic, and many fisheries will be affected over a large area if all these projects are installed.

We recognize that data on private recreational fishing effort, especially data on fishing locations, are limited compared to commercial fisheries and for-hire recreational fisheries operating in federal waters. It will be important to clearly articulate the limitations of the available data and work with local fishermen to understand how the project area is used by recreational fisheries. The EIS should evaluate all types of recreational fishing, including fishing from private vessels, for-hire fishing, and recreational fishing tournaments.

Turbine foundations and their associated fouling communities will create artificial reefs, which are expected to attract certain fishery species (e.g., black sea bass), as evidenced by the two CVOW research turbines. The EIS should acknowledge that the benefits of this artificial reef effect will vary by target species and by fishing sector. For example, any benefit to recreational anglers targeting highly migratory species (e.g., tunas and sharks) could be offset by the inability to anchor or to drift throughout the area. If operators shift their effort outside the project area during construction or long-term operations, this will potentially put them in areas of higher vessel traffic and gear conflict. Also, depending on operating conditions at sea, commercial and recreational fishermen cannot always reap the benefits of any increased catchability of target species due to safety concerns of fishing in swells around the turbines. Although fishermen in the CVOW area already have experience fishing near the two research turbines installed in 2020, this may not prepare them for fishing safely within the 179-205 turbine commercial scale project. This should be evaluated in the EIS.

The EIS should clearly document the potential amount of cabling (inter-array and offshore export cables) anticipated to require surface lay with external armoring if sufficient burial depth cannot be achieved. The New England Council's submarine cables policy recommends that when cable burial is not possible, cables should be protected with materials that mimic natural, nearby habitats where possible. The characteristics of any cable protection materials that may be used should be identified. These materials contribute to the net amount of complex habitat that would exist in the area once the project is constructed. The EIS should clearly acknowledge that the addition of new complex habitat will replace existing habitat types and the impacts of such a change should be analyzed.

The COP proposes that up to nine offshore export cables will share a common cable route. We support the use of shared cable routes and have commented to BOEM in the past that coordinated transmission could have environmental benefits if it reduces the number of cable installations required and the amount of disturbed habitat. Effects of cable installation include both noise and sediment plumes, which may affect biological processes for fish species. It will be important for the impacts analysis, including the EFH assessment, to consider how installation during different seasons will affect different species and lifestages during spawning, juvenile settlement, etc. The nature of these repeated effects over time should be accounted for in the analysis of impacts to habitats and fishes.

Potential impacts of electromagnetic fields (EMF) on fishery species are a concern to the fishing community and the extent to which EMF may or may not impact marine species should be thoroughly described in the EIS. The EIS should acknowledge the limitations of the current scientific knowledge in this area and should provide justification, including supporting scientific studies, for all conclusions regarding EMF.

It is essential that all cables be removed during decommissioning. Abandoned, unmonitored cables could pose a significant safety risk for fisheries that use bottom-tending gear and the long-term risks to marine habitats are unknown.

In the context of both cable and turbine installation, any place where the bottom sediments will be disturbed must be evaluated for sediment contamination to understand the potential for environmental effects associated with contaminant release. Two obvious sources of contamination are dredged spoils from inshore, nearshore, or harbor maintenance and disposal of onshore materials (including waste). For many years, such disposal was not evaluated carefully and not regulated as it is today. As a result, sediments and other material with unacceptable levels of heavy metals and persistent organic pollutants were disposed in ocean waters and may remain in locations where they could be disturbed. These sources of contamination need to be assessed and managed as part of the offshore wind development process.

### **Cumulative impacts**

The EIS must include a meaningful cumulative impacts assessment. We supported the criteria used in the Vineyard Wind 1 EIS for defining the scope of reasonably foreseeable future wind development; however, that scope should now be expanded to include the anticipated New York Bight lease areas. The cumulative effects analysis should also consider the impacts of cables from the many planned offshore wind projects.

Cumulative impacts and risks need to be evaluated for species that are widely distributed on the coast. Species such as bluefish, summer flounder, and others that migrate along the coast could be affected by multiple offshore wind projects, and well as other types of coastal development.

Climate change will also be an essential consideration in the cumulative effects analysis for all species. The distributions and abundance of many species are changing (some increasing, some decreasing) due to climate change and other factors. The EIS should acknowledge that impacts from the construction of wind farms will occur in this context.

We continue to have significant concerns about the cumulative impacts of offshore wind development on fishery independent surveys. Major negative impacts to these surveys would translate into greater uncertainty in stock assessments, the potential for more conservative fisheries management measures, and resulting impacts on fishery participants and communities. We are encouraged by BOEM's commitment to working with NOAA on long term solutions to this challenge through the regional, programmatic, Federal Survey Mitigation Program, described in the Record of Decision for the Vineyard Wind 1 project.

### **Conclusion**

We appreciate the opportunity to provide comments to ensure that issues of social and ecological importance are considered in the forthcoming EIS for the CVOW COP. We look forward to working with BOEM to ensure that any wind development in our region minimizes impacts on the marine environment and can be developed in a manner that ensures coexistence with our fisheries.

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, J. Bennett, A. Lefton