



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF THE DIRECTOR
235 Promenade Street, Room 425
Providence, Rhode Island 02908

March 2, 2017

Dr. Walter Cruickshank
Acting Director
Bureau of Ocean Energy Management
1849 C Street, NW
Washington, D.C. 20240

Re: Development of the New York Lease Area

Dear Dr. Cruickshank:

As Director of the Rhode Island Department of Environmental Management (RIDEM), and as a partner with BOEM on the Northeast Regional Planning Body, I strongly support BOEM's Renewable Energy Program, which is aimed at advancing a clean energy economy. As you know, Rhode Island is home to the first offshore windfarm in the U.S. We are proud to be first, not only with regard to actual construction, but also to the thoughtful and thorough planning process that enabled the project to move forward with broad support from stakeholders.

As a member of the Northeast Regional Planning Body, I am also proud to be a state representative from the first region in the country to develop a regional ocean plan. It has been a rewarding experience to partner with BOEM on the development of the Northeast Ocean Plan, which was certified by the National Ocean Council in December 2016.

I do, however, wish to address concerns pertaining to the lease of the New York Wind Energy Area. In particular, I want to urge BOEM to engage in more effective and informed decision-making, as set forth in the Northeast Ocean Plan as BOEM moves forward with the development of the New York Wind Energy Area (NY WEA).

RIDEM, through our Division of Fish & Wildlife, has submitted formal comments to BOEM regarding the Environmental Assessment for the NY WEA (letter dated June 13, 2016) and the Proposed Sale Notice (letter dated August 5, 2016).

The primary purposes of this communication are to: 1) urge improvements in the overall review process, consistent with the principles embodied in the Northeast Ocean Plan; 2) lay the groundwork for RI Governor Gina Raimondo's companion request to establish a joint Intergovernmental Task Force that includes RI and NY, and potentially MA, CT, and NJ as well, to facilitate improved intergovernmental coordination; and 3) present a detailed report, prepared in 2016 by RIDEM, titled "Rhode Island Stakeholder Concerns Regarding the New York Wind Energy Area."

Principles and Commitments Set Forth in Northeast Ocean Plan

The Northeast Ocean Plan is a tremendous achievement. It was developed over the past four years by the Northeast Regional Planning Body, comprised of nine federal agencies (including BOEM), all six New England states (including RI), six tribes from the region, and the New England Fishery Management Council. New York serves as an *ex officio* member. From inception to signing, the Plan has garnered widespread public support.

The core purpose of the plan is to foster improved decision-making on ocean health and uses via enhanced interagency coordination, strong stakeholder involvement, and solid data. Key components of the plan include marine life and habitat, commercial and recreational fishing, and energy and infrastructure. A major focus of the plan is to achieve balance and compatibility among past, current, and future ocean uses.

The Plan sets forth a host of best practices to guide agency decision making. The practices all relate to the three above-noted tenants: improved data, intergovernmental coordination, and stakeholder engagement.

Status of Activities Regarding Leasing of the NY WEA -- BOEM

The NY WEA, officially established in March 2016, is the result of a request by the New York Power Authority. Because of the nature of the request, the site location was selected by a private entity, rather than through a stakeholder engagement process. BOEM prepared an Environmental Assessment to allow lease issuance within the NY WEA and approval of site assessment and site characterization activities on that lease. This differs from the protocol followed for other WEAs, which were identified by BOEM via stakeholder engagement. The process that evolved for the NY WEA was unfortunately neither as transparent nor as well-informed a decision-making process as that advocated by the Northeast Ocean Plan.

Opportunities for the public to provide input have been limited thus far; stakeholders may comment on the Environmental Assessment and Environmental Impact Statement, if applicable, as well as at BOEM-arranged stakeholder meetings. While BOEM provided these opportunities in the NY WEA leasing process, there is a sense among many stakeholders that the process has fallen short, particularly with regard to the consideration of potential impacts.

One important and promising step that BOEM has taken to date is BOEM's use of Intergovernmental Task Forces to enable public engagement. However, that opportunity does not address Rhode Island's interests relative to the NY Lease Area because the intergovernmental task force for the project only includes officials from the state of NY, along with various federal officials. As noted below, the development of the NY WEA has the potential to impact Rhode Island interests. As such, we ask that BOEM reconfigure the process to better ensure that RI's interests are fully considered. One approach would be to establish a joint Intergovernmental Task Force that includes RI, and potentially MA, CT, and NJ, as well as NY. That proposal is set forth in an accompanying letter from Governor Raimondo. The Governor is also advocating for broader stakeholder involvement in the review process.

RI-Based Concerns Associated with the Development of the NY Lease Area

To help ensure that Rhode Island's interests regarding nearshore and offshore wind energy development are balanced with the State's interests in minimizing impacts to marine resources, fishermen, and other

ocean users, RIDEM has established a marine biologist position, focused on wind-energy issues, within the Department's Division of Fish and Wildlife. In response to initial concerns raised by RI-based commercial fishery interests regarding the NY WEA, RIDEM hosted a public meeting on May 18, 2016 to gather public input, and followed up with an analysis of stakeholder-identified issues associated with the NY WEA. That follow-up analysis is included in the enclosed report titled "Rhode Island Stakeholder Concerns Regarding the New York Wind Energy Area." A summary of the major issues and concerns set forth in the report follows.

- RIDEM and RI's commercial fishing industry are particularly concerned about the potential impacts to the commercial squid and scallop fisheries and vessel traffic safety.
 - The NY Lease Area is situated in the waters that are heavily utilized by RI commercial squid fishermen.
 - The value of seafood harvested in the NY Lease Area that is landed in Rhode Island on an annual basis is substantial.
 - The seafood harvested in 2014 from the NY Lease Area was valued at \$2.1 million in ex-vessel value. Ex-vessel value does not reflect the true value of the fishery to the RI economy, as many businesses beyond fishermen and seafood dealers rely on the steady inflow of seafood to survive financially. Hence, the value of seafood coming from the NY Lease Area in 2014 is likely higher than \$2.1 million.
 - The highest value species coming from the NY Lease Area to Rhode Island are squid and sea scallops. In 2014, \$1.3 million worth of scallops were harvested from within the NY Lease Area and landed in Rhode Island. While the highest annual value of squid coming from the NY Lease Area (\$0.9 million in 2012) is lower than that of scallops in 2014, a large volume of squid is consistently harvested from within the NY Lease Area, making it the most valuable species to the Rhode Island economy.
- The socioeconomic model used by BOEM and the Northeast Fisheries Science Center to determine which states may be impacted does not accurately portray the full economic value of commercial fisheries coming from the NY Lease Area.
 - Industry has stated that the information presented by BOEM at fishery stakeholder meetings is inaccurate, especially the economic value of squid harvested within the NY Lease Area.
 - RIDEM has confirmed that the numbers presented by BOEM from their socioeconomic model are different from the value of landings coming from the NY Lease Area.
 - RIDEM obtained Vessel Monitoring System (VMS) data, reflecting fishing vessel locations, from NOAA's Office of Law Enforcement and used the data in conjunction with Vessel Trip Reports (VTR) and Dealer Reports to determine the annual values of squid and other key species coming from the NY Lease Area that are landed in RI.
 - RIDEM's estimate of the annual value of squid harvested from the NY WEA and landed only in RI is \$525,135.30 (from 2009-2015). This is significantly larger than BOEM/NOAA's estimate of \$123,703 for squid landings coming from the NY WEA landed in any state from 2007-2012. For the years where the two studies overlap, BOEM's average annual estimate is \$204,365 for squid harvested within the NY WEA and landed anywhere, and RIDEM's estimate is \$531,796 for squid harvested within the NY WEA and landed exclusively in RI.

Considering that RI is not the only state where squid are landed, the BOEM/NOAA Fisheries' model may underestimate the value of squid harvested within the NY WEA by 60% of the actual landings value.

- The socioeconomic model report has not yet been peer reviewed or made publicly available, even though it was used by BOEM as part of the Environmental Assessment.
 - Although RIDEM understands that the intent of the socioeconomic study is to establish a single analytic approach that can be applied to all proposed Lease Areas along the Atlantic coast, a more detailed analysis is warranted for each WEA to more accurately ascertain the full impacts of current and future development proposals.

Table 1. Differences in squid landing value estimates calculated by BOEM/NOAA Fisheries (using only VTR) and RIDEM (using VMS data in conjunction with VTR and dealer reports).

Year	BOEM/NOAA Estimate using VTR data (value from NY WEA landed anywhere on the coast)	RIDEM Estimate using VMS data (value from NY WEA landed ONLY in Rhode Island)
2007	\$255,574.00	Not available
2008	\$71,673.00	Not available
2009	\$182,057.00	\$304,737.50
2010	\$87,430.00	\$26,597.25
2011	\$228,287.00	\$819,274.47
2012	\$319,686.00	\$976,573.29
2013	Not assessed	\$689,694.90
2014	Not assessed	\$820,565.92
2015	Not assessed	\$38,503.40

*Not assessed = data for these years were not obtained by BOEM/NOAA Fisheries

*Not available = data for these years does not exist (i.e. VMS was not yet required for these fisheries)

- RIDEM acknowledges that BOEM removed 5 lease sub-blocks from the NY WEA to reduce the potential impact to the fishing industry. Nevertheless, the removed Cholera Bank aliquots will not minimize negative impacts to the RI fishing industry.
 - RIDEM conducted a second VMS/VTR analysis using the updated NY Lease Area (instead of the original NY WEA) and determined that very little fishing by RI vessels actually occurs in the removed sub-blocks area. All trips that included fishing in the deleted region also included fishing in the remaining portion of the NY Lease Area. Therefore, all landings from fishing activity in the deleted area were still included in the estimated landings from the whole NY WEA, and the economic exposure estimate did not change for any RI vessels as a result of the sub-block removal.
- The Lease Area is situated directly between two shipping lanes going into the Port of New York and New Jersey, the busiest port on the East Coast.
 - Potential development would include the installation of stationary structures within the NY Lease Area, which could increase the likelihood of a vessel collision or allision.
 - RI fishermen are concerned that the entire area will become a fisheries exclusion zone as a result of the possible safety issues.

- The United States Coast Guard (USCG) has provided input regarding the safety of possible development between shipping lanes, but BOEM has not followed USCG recommendations.
 - The USCG recommends a minimum of two nautical miles between shipping lanes and stationary structures, as well as a boundary between shipping lane entrances/exits and structures of at least five nautical miles. BOEM's preferred alternative is to lease an area with a one-nautical-mile buffer between the shipping lanes and the area where stationary structures may be installed.
- BOEM, as a party to the Northeast Ocean Plan, is committing to the use of data available from the Northeast Ocean Data Portal in its decision-making processes.
 - Data Portal information, including detailed Vessel Monitoring System maps of each fishery's vessel densities at different locations, should be used by BOEM in their decision-making process, and the methods by which these data are considered should be clearly outlined and documented for the public.
 - The Northeast Ocean Plan was certified by the National Ocean Council in December 2016 and access to the 3,000 maps on the Data Portal is already available. This information should be used in BOEM's renewable energy leasing process.
 - The NY Lease Area is situated partially within the Northeast planning area and partially within the Mid-Atlantic planning area. A clear plan for how information and data from both planning areas will be used jointly should be outlined to address this issue and ensure that the best available data and science are used in decision-making, as the Northeast Ocean Plan requires.

Summary

RIDEM remains committed to partnering on BOEM's important work in the renewable energy sector. Nevertheless, we also recognize the importance of engaging in a transparent and effective decision-making process that draws upon full, interagency coordination, is based on common goals and information sources, and incorporates and reflects the knowledge, perspectives, and needs of all ocean users. As such, we ask that BOEM undertake a more meaningful level of engagement as BOEM begins the review of the potential development of the NY Lease Area. Such engagement must involve RI interests, given the significant utilization of the NY Lease Area by RI fishermen.

RIDEM stands ready to engage, on behalf of and in coordination with the RI commercial fishing community.

Such engagement, coupled with the identification and consideration of all applicable data pertaining to resources and activities within the NY Lease Area, are the hallmarks of smart planning, sound stewardship, and good government, which we have committed to pursue via the Northeast Ocean Plan.

I appreciate your interest in this important issue.

Sincerely,



Janet Coit
Director

Enclosure