

United States Senate

WASHINGTON, DC 20510

December 14, 2018

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

Dear Dr. Cruickshank:

As long-time supporters of both the offshore wind and fishing industries, we write to urge the Bureau of Ocean Energy Management (BOEM) to continue to pursue policies for the offshore wind leasing and permitting process that will help minimize conflicts among developers, the fishing industry, and other stakeholders.

Massachusetts and Rhode Island have championed offshore wind and set ambitious renewable energy goals. Our states understand that smart planning and consultation with stakeholders, particularly the fishing industry, will allow offshore wind to flourish in the United States, protect important ocean resources, and maintain access for existing users. However, we have heard from our constituents who believe that BOEM is not currently taking this balanced approach. This is particularly true with respect to the fishing industry.

The seafood industry is a vital economic engine for our states—supporting 89,868 jobs in Massachusetts and Rhode Island.¹ For example, in 2016, \$327 million of seafood was landed in New Bedford, MA and \$56 million in Point Judith, RI.² These communities, which have suffered federally-declared fishery disasters over the last decade, can ill-afford additional hardship resulting from a faulty development process.

We have seen the offshore wind development process work successfully off the Rhode Island coast, where the nation's first offshore wind project currently provides energy to the residents of Block Island and beyond. With a strong reliance on collaborative and meaningful engagement, Rhode Island's experience proved that offshore wind and other marine industries can operate in harmony. We should apply these lessons to projects off the East Coast.

Though we recognize BOEM utilizes roundtable discussions, liaisons, and initiatives such as "Smart from the Start" to improve communication between the fishing industry and wind developers, many of our constituents consider the existing efforts to be ineffective. These interactions come after a lease is awarded, missing the better opportunity to identify conflicts and mitigate potential harms before awarding a lease. Similarly, we are not confident that BOEM has met the charge set out in the Outer Continental Shelf Lands Act (OCSLA) that BOEM

¹ <https://repository.library.noaa.gov/view/noaa/16121>

² <https://www.st.nmfs.noaa.gov/commercial-fisheries/commercial-landings/other-specialized-programs/total-commercial-fishery-landings-at-major-u-s-ports-summarized-by-year-and-ranked-by-dollar-value/index>

coordinate and consult with the federal agencies who are “involved in planning activities that are undertaken to avoid or minimize conflicts among users” before a lease is granted.³

With these concerns in mind, we request a briefing on exactly how BOEM has consulted with fishermen and other fisheries experts, like the National Marine Fisheries Service, both before and after granting offshore wind energy leases in federal waters.

We also ask that you respond to the following questions by January 4, 2019:

1. Federally available fisheries data are often incomplete due to confidentiality needs, varied reporting requirements, and variations among gear type, seasonality, and fish migrations. Many types of data and maps need to be consulted to have a complete picture of the areas fishermen fish and transit, including Vessel Trip Reports, Vessel Monitoring System data, and Automatic Identification System data.
 - a. For all past and current projects, which types of location-specific data has BOEM used before leases are granted to understand where fishermen fish and transit?
 - b. For all past and current projects, which maps has BOEM used after the lease was granted to understand where fishermen fish and transit?
 - c. Has BOEM used fishing location data from the Northeast Regional Data Portal to inform lease areas in the northeast, before and after leases were granted? If not, why not?
 - d. List BOEM’s current and planned efforts to improve maps detailing where fishermen fish and transit.
 - e. List BOEM’s current and planned efforts to make spatial planning efforts more comprehensive and inclusive of all types of fishing data.
2. BOEM has funded a NOAA Fisheries project to create a Comprehensive Benthic Habitat Database to understand how construction and operations of offshore wind will affect fish habitats. How is BOEM incorporating these data into its decision-making before and after wind leases are granted?
3. 30 C.F.R. §585.203 directs BOEM to coordinate and consult with relevant federal agencies, the governor of the affected state, and local government and tribes. The regulation specifically requires coordination and consultation among these entities with “federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid or minimize conflicts among users and maximize the economic and ecological benefits of the [Outer Continental Shelf] OCS, including multifaceted spatial planning efforts).”⁴ How has BOEM consulted with federal agencies on multifaceted spatial planning efforts?
4. BOEM uses a Fishery Relative-Use Index to help minimize conflicts between offshore wind projects and the fishing industry.⁵
 - a. What data inform the Fishery Relative-Use Index?
 - b. How does BOEM synthesize and prioritize fishing data, such as fishing intensity and landings values, within the index?

³ <https://www.gpo.gov/fdsys/pkg/CFR-2014-title30-vol2/pdf/CFR-2014-title30-vol2-sec585-210.pdf>

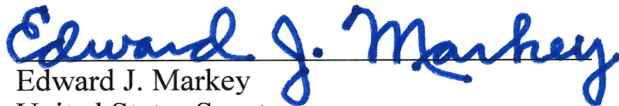
⁴ <https://www.gpo.gov/fdsys/pkg/CFR-2014-title30-vol2/pdf/CFR-2014-title30-vol2-sec585-210.pdf>

⁵ <https://www.boem.gov/Initial-Fisheries-Analysis/>

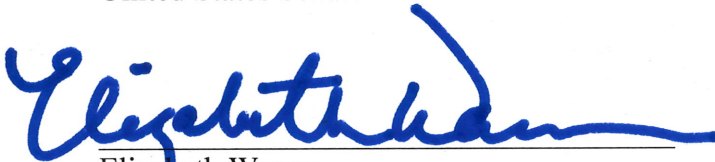
- c. At what points in the offshore wind siting and leasing process, from call to operation, does BOEM use the Fishery Relative-Use Index to inform lease locations?
5. How has BOEM used lessons learned in state waters from Rhode Island's Block Island wind project? For example, has BOEM altered any of its review processes or guidance to developers based on the successful completion of the Block Island project? Please also describe in detail any coordination, consultation, and meetings held with the state of Rhode Island at which the development of the Block Island project was discussed.
6. For the projects that are beyond the leasing stage, please describe in detail all avenues for the public to provide feedback, including through comment periods, listening sessions tied to environmental reviews, and Construction and Operation Plan (COP) approvals. Please also describe BOEM's process for how it reviews and incorporates feedback, including fisheries-specific location and catch data, received during any of these public engagement efforts. During task force meetings and other public events, how does BOEM ensure there is ample opportunity for public comment and additional feedback?
7. Fishing vessels often steam days and weeks from their homeports to harvest fish. Therefore, the closest ports to a lease may not necessarily be the port most affected by an offshore wind development project. How has BOEM consulted with NOAA Fisheries to identify which ports are most affected by individual leases?


We look forward to receiving thorough responses to our questions and request to schedule a briefing by January 4, 2019. If you have any questions, please reach out to our staff.

Sincerely,


Edward J. Markey
United States Senator


Sheldon Whitehouse
United States Senator


Elizabeth Warren
United States Senator


Jack Reed
United States Senator

Cc: The Honorable Ryan Zinke
The Honorable Wilbur Ross